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Reasons for Decision

Alliance Pipeline Ltd.
as General Partner of Alliance Pipeline Limited Partnership

RH-002-2014

July 2015

Part IV Tolls and Tariff

Canada

National Energy Board

Reasons for Decision

In the Matter of

**Alliance Pipeline Ltd.
as General Partner of Alliance
Pipeline Limited Partnership**

An Application for Approval of New Services
and Related Tolls and Tariffs

RH-002-2014

July 2015

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Glossary of Terms and Abbreviations

$/10^{3}m^3/°C	Dollars per 1 000 cubic metres per degree Celsius
$/GJ/d	Dollars per gigajoule per day
$/Mcf	Dollars per 1,000 cubic feet
$10^3m^3/d$	1 000 cubic metres per day
$10^6m^3/d$	1 000 000 cubic metres per day
ACA	Annual Contribution Amount
ACM	Alliance Canada Marketing Ltd.
AECO	The natural gas hub in Alberta establishing a commodity cost for natural gas
Alliance	Alliance Pipeline Ltd. as General Partner of Alliance Pipeline Limited Partnership
Alliance Pipeline or Pipeline	Canadian portion of the Alliance Pipeline System and associated infrastructure
Alliance Pipeline System	A 3 719 kilometre (2,311 mile) high-pressure natural gas transmission pipeline system operating in Canada and the United States, designed to deliver rich natural gas from the Western Canadian Sedimentary Basin to markets accessible through the Chicago market hub
AOS	Authorized Overrun Service
Application	Alliance's application dated 22 May 2014 to implement new services and related tolls and tariff on the Alliance Pipeline
ATP	Alliance Trading Pool
Aux Sable	Aux Sable Liquid Products LP
B.C.	Province of British Columbia, Canada
B.C.-MNGD	British Columbia Ministry of Natural Gas Development
Bcf/d	Billion cubic feet per day
Board or NEB	National Energy Board

BP Canada	BP Canada Energy Group ULC
Btu/cf	British thermal unit per cubic foot
CA	Confidentiality Agreement
CAPP	Canadian Association of Petroleum Producers
CREC	Canadian Receipt Pool
CSTF	Alliance Canadian Shipper Task Force
Delivery Zone	The portion of the Alliance Pipeline that extends from the ATP to the Canada-U.S. border
Fair Return Standard	The Fair Return Standard establishes the requirements that must be met by the return allowed to a utility. The Fair Return Standard requires that a return: be comparable to the return available from the application of invested capital to other enterprises of like risk (the comparable investment standard); enable the financial integrity of the regulated enterprise to be maintained (the financial integrity standard); and permit incremental capital to be attracted to the enterprise on reasonable terms and conditions (the capital attraction standard)
FDS	Firm Delivery Service at a fixed toll
FDS-IBR	Firm Delivery Service at an Index-Based Rate
FFPS	Firm Full Path Service
FRGS	Firm Rich Gas Service
FRS	Firm Receipt Service
FT	Firm Transportation
G&A	General and Administrative
HCDP	Hydrocarbon dewpoint
IBR	Index-Based Rate
IR	Information request
IT	Interruptible Transportation
km	Kilometre

LDC	Local distribution company
LNG	Liquefied natural gas
Mcf	1,000 cubic feet
MJ/m^3	Megajoule per cubic metre
MMcf/d	Million cubic feet per day
NEB Act or Act	*National Energy Board Act*, RSC 1985 c N-7
NERA	National Economic Research Associates, Inc.
New Services Offering or NSO	The transportation and park and loan services described in the Application for service on the Alliance Pipeline commencing 1 December 2015
NGL	Natural gas liquids
NGTL	NOVA Gas Transmission Ltd.
NIT	NOVA Inventory Transfer is a Western Canada Sedimentary Basin gas-trading hub for customers on the NGTL system
NRR	Notional Revenue Requirement
O&M	Operation and Maintenance
PA	Precedent Agreement
PITS	Priority Interruptible Transportation Service
QSR	Quarterly surveillance report
RCV	Recoverable Cost Variances
Rich Gas Credit	A credit payable to FDS and FDS-IBR to shippers when the gross heating value of the commingled stream of gas transported from the ATP exceeds a fixed energy conversion factor of 40.97 MJ/m^3 (1,100 Btu/cf)
ROE	Return on equity
SPG	Shipper Paired Gas
STF Policy Group	Alliance Shipper Task Force (Policy Group)

STFT	Short-Term Firm Transportation
Tariff	The terms, conditions, and toll schedules presented in the NSO
Tidal	Tidal Energy Marketing Inc.
Toll design zones	Zone 1, Zone 2 and the Delivery Zone
TPAL	Term Park and Loan
TransCanada	TransCanada PipeLines Limited
TransCanada Mainline	A high-pressure natural gas transmission system owned by TransCanada PipeLines Limited that extends from Empress, Alberta (near the Saskatchewan border) across Saskatchewan, Manitoba, and Ontario and through a portion of Quebec.
Trans Mountain	Trans Mountain Pipeline ULC
TSA	Transportation Service Agreement
U.S.	United States of America
WCSB	Western Canadian Sedimentary Basin
Westcoast	Westcoast Energy Inc., carrying on business as Spectra Energy Transmission
Westcoast T-North	Toll Zone 3 on the Westcoast Transmission System
Zone 1	The portion of the Alliance Pipeline downstream of Blueberry Hill to the Canada-U.S. border
Zone 2	The portion of the Alliance Pipeline upstream of Blueberry Hill

Recital and Appearances

IN THE MATTER OF the *National Energy Board Act* and the regulations made thereunder;

IN THE MATTER OF an application dated 22 May 2014 by Alliance Pipeline Ltd. as General Partner of Alliance Pipeline Limited Partnership for orders and approvals necessary to implement new services and related tolls and tariff on the Alliance Pipeline commencing 1 December 2015 under file OF-Tolls-Group1-A159-2014-01 01; and

IN THE MATTER OF Hearing Order RH-002-2014 dated 20 August 2014.

HEARD in Calgary, Alberta on 15 and 16 April 2015;

BEFORE:

P. Davies	Presiding Member
S. Parrish	Member
M. Richmond	Member

Appearances	**Participants**
L. G. Keough M. Buchinski	Alliance Pipeline Ltd.
R. Twyman V. Light L. Cruess	Alliance Canada Marketing Ltd.
R. B. Wallace, Q.C. M. Keen	BP Canada Energy Group ULC
N. Schultz	Canadian Association of Petroleum Producers
E. Graff D. Chapman	British Columbia Ministry of Natural Gas Development
K. Olesen	Tidal Energy Marketing Inc.
L. Bell L. Sherret	National Energy Board

Disposition

The Business Environment

The Alliance Pipeline (Pipeline) has been in commercial operation since December 2000. North American gas markets have changed considerably in the years since the Pipeline was first commissioned. As a result, evolving production and consumption patterns could have an impact on the business environment in which Alliance Pipeline Ltd. as General Partner of Alliance Pipeline Limited Partnership (Alliance) operates.

When Alliance commenced its operations, it was supported by 15-year firm service contracts. As of 2010, the majority of Alliance's shippers declined to exercise their renewal rights under the existing transportation contracts, leaving approximately 92 per cent of previously contracted capacity available to the market, effective 1 December 2015. In response, Alliance brought its New Services Offering (NSO) application (Application) to the National Energy Board (Board or NEB), seeking orders and approvals necessary for Alliance to implement new services and related tolls and tariff (Tariff) on the Pipeline.

Alliance referred to the NSO as an "at-risk" business model, which deviates from the traditional cost of service tolling model and reflects a more dynamic and flexible market-focused approach. The "at-risk" model was designed to assume certain risks by providing future users of the Pipeline with a variety of service offerings and tolling options, thus ensuring the long-term economic viability of the Pipeline.

Shippers contracted for a significant amount of capacity on the Pipeline over the course of the proceeding. However, Alliance maintained that it faced a comparable level of risk to what it faced at the time of the Application. Accordingly, Alliance did not propose any revisions to the NSO, but continued to refine the terms and conditions of its services in consultation with its shippers.

Decisions

New Services

The Board approves, as filed, the new services and associated terms and conditions. The Board considers that Alliance's proposal represents an unbundling of the transportation service currently being offered to users of the Pipeline. This unbundling grants shippers flexibility in choosing services specific to their needs. In the Board's view, Alliance's success in attracting committed capacity through the Precedent Agreement (PA) process, as well as the relative lack of shipper complaints before the Board in this proceeding, is demonstrative of the reasonableness of the new services offered.

The Board rejects the arguments of BP Canada Energy Group ULC (BP Canada) and Alliance Canada Marketing Ltd. (ACM) that renewal shippers should continue to receive service under the NSO equivalent to that received under their existing contracts. The contracts themselves explicitly contemplate toll and tariff changes approved by the Board.

Firm Tolls

The Board finds that the proposed toll methodology will produce firm tolls that are just and reasonable, and not unjustly discriminatory. Accordingly, the Board approves the firm tolls as filed. In reaching its decision, the Board considered the appropriateness of Alliance's PA process, market acceptance of the offering, and the fact that the large majority of shippers signing PAs took no issue with the toll methodology. The Board did not approve, nor place any material weight on, the Notional Revenue Requirement (NRR) in determining whether the firm tolls were just and reasonable. The Board rejects the argument of the British Columbia Ministry of Natural Gas Development (B.C.-MNGD) and finds that the proposed tolls do not unjustly discriminate against B.C. shippers.

The Board finds that Alliance operates in an environment with limited competition. While the Board expects that Alliance has the ability to exercise market power, the Board is of the view that this market power was not abused in setting the firm tolls, particularly given that the PA process was appropriate and the proposed tolls were lower than the historical cost of service based tolls for comparable service.

The approved tolls and Tariff will apply to all transportation services provided by Alliance on or after 1 December 2015.

Seasonal and Interruptible Tolls

The Board views biddable tolls for seasonal and interruptible services as an economically efficient way to allocate capacity. The Board grants Alliance the ability to establish bid floors by receipt point or region, but does not grant Alliance unlimited pricing discretion. Although TransCanada PipeLines Limited (TransCanada) was granted such discretion in the RH-003-2011 Decision, and was allowed to maintain it in RH-001-2014, the Board finds that Alliance's circumstances are drastically different than those faced by TransCanada. The Board is also of the view that imposing limitations on bid floors will mitigate any potential abuse of Alliance's market power.

The Board has decided that the bid floor for seasonal services may be set between 100 per cent and 125 per cent of the corresponding fixed five-year toll. The bid floor for interruptible services may be set at any level up to 125 per cent of the corresponding fixed five-year toll. Discounting is permitted for interruptible services due to its limited availability, though the Board will not allow discounting of seasonal services below the firm service toll so as not to undermine the value of firm service. Firm shippers using Priority Interruptible Transportation Service (PITS) will pay a maximum of 125 per cent of the corresponding five-year toll. The Board therefore considers a maximum bid floor of 125 per cent to be appropriate for both seasonal and interruptible services. The Board notes that shippers may submit bids at any level, which will allow the market to drive the tolls upward when capacity is scarce.

Recoverable Cost Variances (RCV) and Abandonment Surcharge

The Board finds Alliance's proposal for recovering costs that are outside of its control and difficult to forecast through an RCV surcharge and deferral accounts to be appropriate. Alliance is required to provide details of the cost categories eligible for inclusion in the RCV to enhance

transparency for shippers and the Board. Any over-collections of the RCV costs will not be to the account of Alliance; rather, year-end balances will be carried over to offset future RCV costs.

The Board also approves Alliance's abandonment surcharge methodology and deferral accounts. Alliance did not provide information or studies to support a collection period of 40 years. The Board expects Alliance to provide such information on the next Board review of set-aside and collection mechanisms, as contemplated by the Board's MH-001-2013 and RH-2-2008 Decisions.

Reserve Account

The Board requires Alliance to implement a reserve account. This reserve account is to hold cash earnings above a threshold level, to be established by a compliance filing. The compliance filing will set the baseline level of cash flow Alliance may distribute to equity holders under the approved toll framework. Prior to making any distributions from the reserve account, Alliance must file, for approval, a depreciation study.

Streamlined Regulatory Process

Alliance's request to implement a streamlined regulatory process is denied. Should Alliance bring an application related to the NSO in the future, the Board will, at that time, establish a fair and appropriate process, having regard to the particular application before it.

Quarterly Surveillance Report (QSR)

Alliance's request for continued relief from the requirement to file QSRs is denied. Reporting is required for shippers and the Board to monitor Alliance's performance. Annual and quarterly reporting requirements are set out in Chapter 9 of this Decision.

Conclusion

The Board believes that Alliance's risk has been reduced considerably since the filing of the Application. The evidence shows that there has been significant uptake of the NSO since the Application was initially filed, resulting in additional certainty of firm contract levels for the next six years. In light of this, the Board approves the concept of the NSO, but has introduced specific limitations in order to better balance the risks faced by Alliance.

In this Decision, the Board has provided both Alliance and its shippers with the tools required to adapt to an evolving business environment. The Board expects these tools to be used to achieve positive outcomes for market participants.

P. Davies	S. Parrish	M. Richmond
Presiding Member	Member	Member

Chapter 1

Introduction

1.1 Overview of the Application

On 22 May 2014, Alliance filed an application requesting orders and approvals necessary for Alliance to implement new services and related tolls and Tariff on the Alliance Pipeline, commencing 1 December 2015. The existing tolls and tariff for the Alliance Pipeline were determined by the GH-3-97 Decision rendered in November 1998. The present Application was filed pursuant to Part IV of the *National Energy Board Act* (NEB Act or Act). In its Application, Alliance requested the following:

- an order pursuant to Part IV and section 60(1)(b) of the NEB Act approving the tolls and Tariff for the NSO;
- approval of the mechanisms for, and calculation of, the RCV demand and commodity surcharges and the Pipeline abandonment demand and commodity surcharges, including the approval and operation of the requested deferral accounts for the RCV and for collection of Alliance's NEB-approved annual collection of pipeline abandonment funds;
- approval of a streamlined regulatory process for new services and new or revised tolling proposals;
- an order or orders for the conversion of the existing agreements for transportation service to continue under the NSO;
- continued relief from the requirement to file with the Board QSRs and performance measures; and
- such further and other relief as Alliance may request or as the Board may deem appropriate, pursuant to section 20 of the NEB Act.

The Board invited comments from interested persons on the Application by letter dated 6 June 2014. Twelve interested persons filed comments by the 7 July 2014 deadline, with Alliance filing its reply on 21 July 2014.

After reviewing the comments received, the Board issued Hearing Order RH-002-2014 on 20 August 2014, setting the Application down for a written process with oral argument and reply. The oral portion of the hearing took place in Calgary on 15 and 16 April 2015.

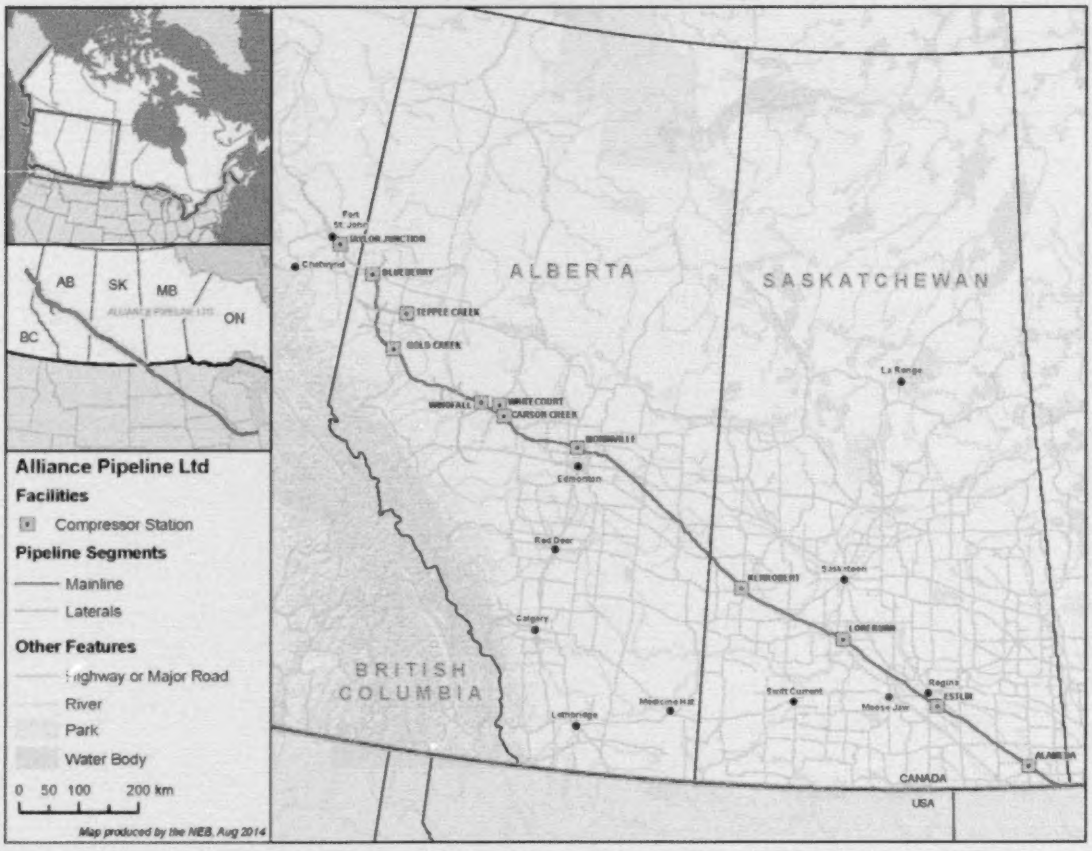
The Board granted standing to 15 intervenors and four commenters in the proceeding.

1.2 Alliance Pipeline System

The Alliance Pipeline System is a 3 719 kilometre (km) (2,311 mile) high-pressure natural gas transmission pipeline system operating in Canada and the U.S. The Board regulates the Canadian portion of the Alliance Pipeline System, which consists of approximately 1 560 km (929.4 miles) of mainline pipeline, 730 km (453.6 miles) of lateral pipelines, and related infrastructure.

The Alliance Pipeline System is a "bullet" line designed for transporting liquids-rich gas from the Western Canadian Sedimentary Basin (WCSB) to the Chicago market hub. The extraction and fractionation facilities, owned and operated by Aux Sable Liquid Products LP (Aux Sable) and located at the Alliance Pipeline's delivery header near Chicago, are critical for managing the heat content of the gas transported on the Alliance Pipeline System and thereby making shippers' gas merchantable for downstream transportation and markets. No change to this basic operational and commercial construct was proposed in this Application. The construction and operation of the Alliance Pipeline System was supported by approximately 1,325 MMcf/d (37.53 $10^6 m^3/d$) of long-term 15-year firm service contracts. The Pipeline has been in commercial service since December 2000. See Figure 1-1 for a map of the Alliance Pipeline.

Figure 1-1 Alliance Pipeline



1.3 Background

1.3.1 GH-3-97 Decision

On 3 July 1997, Alliance applied to the Board for a certificate of public convenience and necessity to construct and operate the Alliance Pipeline. Alliance requested the Board issue an order under Part IV of the NEB Act approving a cost of service based toll methodology and designation as a Group 2 company for the purpose of toll and tariff regulation.

The GH-3-97 Reasons for Decision were released on 23 November 1998. The Board found that Alliance's proposed tolling methodology would result in tolls that were just and reasonable and that there would be no unjust discrimination in tolls, service, or facilities. The Board noted that the tariff and resultant tolls were negotiated between Alliance and its shippers. The approved tolls were set on a cost of service basis and consisted of a demand charge (essentially a reservation charge for the right to transport gas), a commodity charge for volumes actually transported, and an in-kind charge for fuel. In addition, there was a surcharge for contracted capacity on the Taylor-Aitken Creek portion of the Alliance Pipeline to reflect the extra distance that this gas had to be shipped. The Board concluded that Alliance should be designated as a

Group 1 company for purposes of toll and tariff regulation but that it would be appropriate to relieve Alliance from the requirement to file QSRs and performance measures.

1.3.2 Changes in the Natural Gas Markets

Since 2001, natural gas production within 40 km of the gathering area of the Alliance Pipeline has grown over 25 per cent while gas production has declined elsewhere in the WCSB. Intra-Alberta demand for gas has been growing and several Liquefied Natural Gas (LNG) export projects have been proposed for Canada's west coast, which could form a new source of demand for Western Canadian gas supply. Rapid development of the Marcellus and Utica Shales has caused gas production to grow in the Northeast U.S. This, in turn, has eroded demand for gas shipped from the WCSB, leading to reduced throughputs on export pipelines. On the whole, North American gas markets have changed considerably since the original commissioning of the Alliance Pipeline.

Chapter 2

Market Power

Views of Alliance

Alliance stated that it does not possess any measure of market power that would enable it to compel shippers to use the Pipeline. To support this position, Alliance commissioned National Economic Research Associates, Inc. (NERA) to provide an analysis of the competition among natural gas transportation options from the WCSB serving the Chicago market. In particular, the NERA report described the competitive nature of the destination and origin markets in which the Alliance Pipeline System operates.

The NERA report concluded that Alliance operates in a highly-competitive destination market in which it does not have the ability to exert market power. In Alliance's submission, this competitive market would constrain Alliance's ability to charge high tolls.

NERA submitted that Alliance is unlike other major pipelines that serve the traditional distributor load in North America because it transports rich gas to market, and because of its relatively young age. According to NERA, Alliance has no captive customers in its sole destination market and, unlike the incumbent pipelines that traditionally service gas distributors and others, it is virtually in the position of a new pipeline entrant in the North American gas markets. With competition in the sole destination market for shippers on Alliance, NERA was of the view that the adoption of a non-discriminatory, cost-based regime deals effectively with the question of market power.

NERA conceded that, under the traditional means of assessing pipeline market power, there are a number of origin markets in Alberta and B.C. that would be considered concentrated. However, NERA submitted that Alliance's share of these markets is often low in comparison to that of other pipelines, and that the cost-based foundation and non-discriminatory nature of Alliance's toll proposal deals with these issues.

In its analysis, NERA identified six origin markets. Alliance indicated that most of the shippers in these six origin markets would have access to a second pipeline through facilities dually-connected to Alliance and one of its competitors. Therefore, shippers would have the immediate option to contract with a competing pipeline in the upstream market. In Alliance's view, the ease of switching between Alliance and a competitor pipeline provides shippers with significant flexibility while simultaneously constraining any one transporter's ability to exhibit market power. Shippers that are not currently dually-connected have the option to become dually-connected, but would require additional expenses, ranging from pipeline build-outs to processing facilities.

Regarding its request for discretion in setting bid floors for seasonal and interruptible services, Alliance stated that it is a price taker in the Chicago market and that its ability to charge high tolls for seasonal and interruptible services would be constrained by the competitive markets within which it operates. In addition, shippers could opt for a fixed, firm, long-term toll that

would provide an alternative to the potential for toll volatility driven by a more dynamic short-term market.

It was Alliance's belief that pricing discretion would not have a significant impact on commodity priced at NOVA Inventory Transfer (NIT) or downstream markets for several reasons. First, Alliance's goal was to contract as much long-term firm service as could be accommodated by the Pipeline. If it was successful, there would be relatively small amounts of shorter-term transportation subject to discretionary pricing. Second, Alliance suggested that its present volumes gathered in Alberta are relatively small compared to those of NOVA Gas Transmission Ltd. (NGTL). Finally, six large interstate pipelines serve the Chicago area and Alliance's market share, using the capacity method outlined in NERA's evidence, is only 17.2 per cent.

Alliance submitted that the Pipeline enhances choices and options, and does not exert market power. Alliance pointed out that in 2010, 92 per cent of Alliance's existing shippers did not renew their contracts. In Alliance's view, this shows that shippers are free to make choices and take action to realize optimal value for their resources, and is confirmation of Alliance's lack of market power. Further, it was Alliance's view that a clear and compelling value proposition for the shipper community prompted the execution of PAs with Alliance, rather than the use of market power. According to Alliance, consultations with potential shippers over the last year and a half indicated that shippers appreciate and support the direction Alliance has taken, and that the commercial support culminated in the execution of PAs.

Alliance asserted that it assumed a far greater amount of risk on volume and costs since it is departing from a relatively risk-free, traditional, cost of service tolling framework. Alliance believed that this approach was necessary to maintain the financial viability of the Pipeline because it did not wield market power. It was Alliance's view that if it did possess market power, shippers would have been compelled to renew their transportation contracts under the historical cost of service framework. According to Alliance, the NSO was designed in recognition of the fact that the Pipeline lacks captive customers and market power.

Views of the Canadian Association of Petroleum Producers (CAPP)

CAPP submitted that producers who have contracted for service on Alliance and who have, therefore, committed physical infrastructure to delivering gas to Alliance will be captive for some time. There were two reasons for this: (i) dedication of upstream infrastructure; and (ii) lack of capacity on the systems of NGTL and Westcoast Energy Inc., carrying on business as Spectra Energy Transmission (Westcoast).

According to CAPP, NGTL and Westcoast receipt capacity is effectively fully contracted in the area of Alliance receipts. It was CAPP's view that, due to NGTL's design processes, there is a reasonable expectation that NGTL facilities in the area will be highly utilized, thereby significantly limiting the amount of interruptible service that would be available. In addition, new NGTL facilities that would allow for increased firm receipts have a three- to four-year lead from the time of a request to the in-service date. Westcoast T-North is also highly utilized and likely to face similar constraints for any expansion. CAPP asserted that producers who ship on Alliance may not be able to redirect flows to NGTL or Westcoast within any reasonable time frame.

CAPP stated that there are physical barriers and economic costs to diverting flow from one pipeline to another. As an example, CAPP submitted that a producer who processes a small volume of gas through a large gas plant that delivers to Alliance may not have physical access to the midstream facilities that would allow it to deliver gas to NGTL or Westcoast. In CAPP's view, even if facilities were to connect the gas plant to both Alliance and another pipeline, it may not be operationally possible for a small volume to be diverted to another pipeline if gas from that plant is flowing only to Alliance.

CAPP observed that there was no meaningful access to annual firm service on Alliance since Alliance had sold all of this capacity. As a result, CAPP expressed concerns that there was no meaningful recourse to regular interruptible or seasonal service for Alliance shippers. In addition, CAPP observed that Alliance shippers have little or no timely access to either NGTL or Westcoast and, as a result, any Alliance shipper seeking to use interruptible or seasonal services under Alliance's proposed full pricing discretion would be subject to monopolistic pricing.

2.1.1 Views of the Board

In the Board's view, economic regulation is designed to prevent the potential abuse of market power by a pipeline company operating in a monopolistic environment or in one with limited competition. In this regard, regulation ensures that a pipeline company charges rates that are fair to shippers while simultaneously providing the company with a reasonable opportunity to earn a fair return on its capital investment. Different environments require different levels of regulatory input. The Board considers that certain circumstances may require little regulatory input, such as when competitive forces are sufficient to justify allowing the market to work. In other cases, the existence of market power, or more specifically the potential to abuse market power, may require more active regulatory intervention.

The Board is of the view that effective competition exists when shippers have the ability to obtain comparable services at reasonable prices from alternative suppliers. On this basis, the Board finds that Alliance operates in an environment with limited competition. The Board notes the evidence filed by CAPP regarding the limited availability of transportation services on Alliance's competitors. In light of this, the Board expects that Alliance has the ability to exercise some level of market power, at least in the short run.

In its deliberation on the Application, the Board considered the potential for Alliance to abuse its market power and, therefore, the need for active regulatory intervention. The Board is of the view that Alliance did not abuse its market power in deriving the proposed firm tolls or offering the new services, service attributes, and tolls through the PA process. For further discussion on the PA process and firm tolls, including the potential for the abuse of market power, see Chapter 3.

The Board considered CAPP's submission regarding the lack of meaningful recourse to interruptible and seasonal services. The Board is concerned that there

is the potential for Alliance to abuse its market power with regard to the proposed pricing discretion for these services. It is the Board's view that pipelines should be provided with the tools to compete but should not be provided with tools to compete unfairly, which could lead to inefficient outcomes. Therefore, the Board has provided mitigation to limit the extent to which Alliance could exercise its market power in this regard. Discussion of this mitigation can be found in Chapters 6 and 8.

Chapter 3

Commercial Engagement

3.1 Precedent Agreement Process

Views of Alliance

Alliance submitted that the PA process was carried out in an effective, transparent and equitable manner. It provided existing and prospective shippers with equal opportunity to contract for service on the Pipeline through the submission of a request for service and the execution of a PA, in compliance with the rules of the PA process.

Alliance stated that it conducted extensive consultations with interested stakeholders in its development of the NSO to better understand the needs of its existing and prospective shippers. As part of its consultation, Alliance facilitated an open dialogue with two of its shipper task forces: the Alliance Shipper Task Force (STF Policy Group) and the Alliance Canadian Shipper Task Force (CSTF).

Alliance submitted that consultation on the new transportation service proposals with shippers commenced approximately three and a half years before the Application was filed on 22 May 2014. In December 2010, a press release was issued proposing to market the Pipeline's capacity based on a multi-service framework beyond 2015. Alliance encouraged the STF Policy Group to join the CSTF to facilitate dialogue regarding potential changes to service. Alliance stated that it presented the CSTF with the results of the transportation contract renewal process, the short-term and long-term expectations for the Pipeline, and an open invitation for input from existing CSTF members regarding the development of the suite of new services on 16 December 2010.

Alliance issued a second press release in October 2012 announcing the framework for new services on the Pipeline. Alliance confirmed that it held a follow-up CSTF meeting and more than 120 individual customer consultations with current and prospective shippers to further refine the suite of services and the process for bringing the new suite of services to the market.

On 15 July 2013, Alliance announced the NSO and advised that re-contracting of the Pipeline would proceed through a PA process. According to Alliance, this announcement triggered a number of consultative meetings. During these meetings, Alliance received feedback regarding the firm service offering and biddable interruptible service, prior to accepting requests for service starting 15 August 2013. Based on feedback received through the consultations, Alliance stated that an initial proposal for interruptible pricing was established. This proposal introduced PITS for Firm Receipt Service (FRS) and included "biddable service with bid floors established daily by Alliance" for delivery and full path service. Alliance further stated that it posted a document on the pricing of interruptible services and a revised version of the PA to its external website, and provided notification of this posting to its shipper task forces.

Alliance's rationale for choosing to use the PA process instead of conducting an open season was that a PA process provided prospective shippers with the opportunity to develop their plays and only commit to transmission capacity when ready. In Alliance's view, this provided greater flexibility while reducing the risk to Alliance of a lack of shipper commitment.

Alliance explained that information documents were posted to the Alliance website and were updated continuously to reflect amendments made to the NSO. It was Alliance's view that through this posting and updating process, all prospective shippers were made aware of the criteria and parameters associated with the NSO and PA process. In addition, Alliance explained that shippers who executed PAs prior to the most recently available PA posted on the Alliance website were provided the opportunity to execute an amending agreement that would incorporate any further changes to the PA. In Alliance's view, this ensured that all shippers were subject to the same PA terms.

According to Alliance, the individual consultations with existing and prospective shippers and producers prior to the filing of the Application included discussions on the balancing of a fixed toll offering with the need for tolling flexibility for seasonal and interruptible services.

As part of the ongoing PA process and continued consultation with existing and potential shippers, Alliance provided notice to both shipper task forces on 16 September 2014 that FRS capacity available for contracting in Zones 1 and 2 had changed due to the significant interest expressed for service in Zone 1.

Alliance submitted that prospective shippers to the PA process were not required to sign a confidentiality agreement (CA) in order to participate in the NSO and that it did not require shippers to sign a CA in order to submit a request for service, or to receive and execute a PA. Alliance stated that it routinely held discussions with prospective shippers regarding aspects of the services that were not fully developed. To be certain that it could have open discussions while the NSO was in development, Alliance had asked, but did not require, all prospective shippers to execute CAs.

Views of BP Canada

BP Canada asserted that its efforts to understand the details of the proposed NSO were denied when Alliance suggested the execution of a CA as a prerequisite for a meeting, despite BP Canada's assurance it was trying to understand the details of the NSO and was only requesting information Alliance would publicly provide to any party.

See Section 3.3 below for a discussion of BP Canada's concerns with respect to the consultation process for conversion of existing contracts.

Views of CAPP

While acknowledging that the NSO was, overall, based on extensive consultation with potentially interested parties, CAPP stated that parties were not aware of the discretionary pricing aspect of the new services proposal until the Application was filed. CAPP was of the view that Alliance did not consult with the shipper community appropriately and believed that some producers executed PAs before the Application was filed. According to CAPP, these

producers only found out that Alliance was seeking unfettered pricing discretion for seasonal and regular interruptible services at the time the Application was filed.

CAPP stated that it was unable to speculate on the specific commercial impacts of pricing discretion on its members' business. However, it contended that all parties that signed PAs prior to the filing of the Application found the marketplace for transportation services significantly different to when the PAs were signed. According to CAPP, the presence of discretionary pricing on the Pipeline, with a limited secondary market, could have altered business decisions that were made in the absence of this information.

3.1.1 Views of the Board

The Board is satisfied with the shipper consultations and PA process conducted by Alliance. The Board notes that PITS was added to the NSO as a result of discussions between Alliance and shippers. Given the slow, progressive nature of the development of the NSO and subsequent contracting, the Board is of the view that Alliance's use of a PA process in lieu of an open season was appropriate in this case. The Board notes that all shippers are subject to the same PA terms, as shippers that signed up for capacity were given the opportunity to amend their PAs to reflect any subsequent changes.

The Board is of the view that Alliance's use of its two shipper task forces to distribute and update information ensured this information was relayed equally and without discrimination to shippers and potential shippers. Shippers knew the terms and conditions of firm service in advance of signing a PA, which, in the Board's view, provided shippers a more equal footing in their business negotiations with Alliance while limiting the potential for Alliance to abuse its market power. The Board recognizes that Alliance used its website to make important information, such as changes to the PA terms and regular updates on contracting capacity, publicly available. Alliance also gave presentations to prospective shippers and provided guidance documents online, which supported the transparency and fairness of its process.

The Board considered CAPP's evidence regarding Alliance's consultation with shippers on discretionary pricing. The Board has decided to put constraints on Alliance's ability to set bid floors for seasonal and interruptible tolls (see Chapter 6).

With regard to BP Canada's claim that Alliance required shippers to sign CAs, the Board accepts Alliance's evidence that it asked, but did not require, shippers to sign. The Board is of the view that Alliance's request did not have a significant or material impact on the overall PA process.

3.2 Existing Contracts

Views of Alliance

Alliance stated that there were only three commercial parties that renewed their contracts for post-November 2015 service: BP Canada, ACM and Tidal Energy Marketing Inc. (Tidal) (the renewal shippers). As part of the transition to the new multi-service framework, Alliance advised the renewal shippers that their existing tariff and service offerings would be terminated and replaced with the new services, effective 1 December 2015. At the time of filing its Application, Alliance had not been able to conclude the proposed commercial resolution of the transition issue with these shippers.

Alliance claimed that all three renewal shippers were provided with the same offer to convert their existing contracts to Firm Full Path Service (FFPS) for the same contract volumes as their renewed Transportation Service Agreements (TSAs), based on the term for which their existing contracts were renewed. Alliance provided documentation of its initial communications with renewal shippers with respect to conversion of the contracts. Alliance also provided a listing of its email communications, telephone conversations and meetings with renewal shippers from October 2012 to December 2014. The initial offer letters were provided to the renewal shippers at the same time and included an invitation to contact Alliance for further information. Alliance stated that, in all cases, subsequent discussions consisted of explaining the NSO, providing details and clarification, and seeking input from the renewal shippers. Alliance stressed that it was very careful to ensure that no preferential treatment was given to any of the renewal shippers.

Alliance requested that the Board issue an order or orders for the conversion of the existing agreements for transportation service to continue under the NSO. In the alternative, Alliance requested that the Board include, in its decision, an explicit directive that all transportation services provided by Alliance on or after 1 December 2015 be governed exclusively by and in accordance with the provisions of Alliance's new Tariff.

Alliance was of the view that if the Board approved the NSO, it would be virtually impossible to meet its existing contractual obligations to the renewal shippers. Alliance submitted that it could not calculate a toll for post-1 December 2015 service under its existing tariff because of the expiry of certain toll components embedded in the tariff. Alliance stated that it was not supportive of administering the existing service for renewal shippers and that doing so would necessitate a renegotiation of the toll principles. In addition, Alliance pointed out that the maintenance of a separate cost-of-service tolling methodology for this capacity would result in an undue administrative burden and additional costs.

Alliance noted that BP Canada specifically raised the issue of Authorized Overrun Service (AOS). Alliance stated that the retention of the existing tariff could lead to an anomaly where renewal shippers are entitled to free AOS while all other shippers have no AOS entitlement. Further, Alliance was of the view that maintaining the current AOS construct was incompatible with the proposed "at-risk" framework. While acknowledging that there are certain service attributes that are different between firm service under the existing tariff and FFPS under the proposed NSO, Alliance stated that many of the changes proposed in the NSO are distinctly in

the renewal shippers' favour. In Alliance's view, if BP Canada were to convert its current TSA to FFPS under the NSO and take advantage of PITS offered in conjunction with firm service, BP Canada would pay a lower toll than it paid for its combined contracted capacity and pro rata share of AOS.

On 27 March 2015, Alliance indicated to the Board that Tidal had executed a PA converting its existing contract to FFPS, but that it was less confident that it would be able to conclude successful negotiations with ACM and BP Canada, the two remaining renewal shippers.

Alliance submitted that the Board has authority to find its applied-for tolls just and reasonable and to affect contracts between Alliance and existing shippers. Alliance noted that Article 10 of its existing agreement deems the agreement to be modified to conform to any inconsistent decision or order. Alliance stated that Article 3.3 and the definition of "Tariff" in the existing agreements similarly acknowledge the Board's authority to make the requested tariff amendment. Having regard to these provisions, Alliance submitted that it is not in default under the existing agreements such that renewal shippers are not entitled to any remedy, including termination or damages. Alliance rejected the proposition that pipelines should be prohibited from amending their tariffs as long as contracts capable of continual renewal are in effect. In Alliance's view, this proposition is unreasonable and completely contrary to existing and accepted practice.

Views of BP Canada

BP Canada stated that it renewed its own contract in 2010 and it provides services to others that have renewed their contracts with Alliance. BP Canada was of the view that renewal shippers with ongoing contracts were being forced to accept the new services, tolls, and terms and conditions of service in order to continue shipping on the Pipeline.

BP Canada submitted that there had been no material conversations, discussions, or negotiations between it and Alliance on how to convert BP Canada's existing contract. BP Canada stated that Alliance's four-phased approach to the potential conversion of BP Canada's existing TSA was to: (i) encourage conversion; (ii) discourage existing contract extensions; (iii) assume conversion; and (iv) request the Board to order conversion.

It was BP Canada's view that the essence of the renewed contracts should be honoured on a go-forward basis and that any changes that would alter a renewal shipper's rights should occur in a way that respects the benefits of the original bargain. BP Canada stated that the terms and conditions contained in the NSO were inconsistent with those that BP Canada had contracted for originally, and it renewed its TSA based on the terms and conditions contained in the existing tariff. According to BP Canada, Alliance should not be permitted to walk away from those commitments in order to offer less service for more money.

BP Canada provided a copy of its existing agreement for service extending beyond 1 December 2015 and noted section 6.2, which allows for unlimited renewals upon five years notice for as long as the Pipeline remains in service. Should the Board approve the NSO as applied for, BP Canada asserted that it would look to and consider all legal remedies that may be available to it at law, in equity or under the existing agreement. BP Canada advised the Board on

16 March 2015 that it provided Alliance with a request for service under the PA process in response to a customer request and on the condition of its continued right to oppose the NSO in this proceeding. BP Canada contended that when the Board considers what is just and reasonable in the circumstances, it can and should take into account the bargain struck by parties.

BP Canada proposed that the Board order Alliance to replicate the service afforded to renewal shippers within the revised NSO structure and account for the resulting volume/revenue consequences in the overall toll calculations by:

- providing the renewal shippers the right to matching FFPS service for an equal volume to their current contracted capacity;
- providing a seasonal allocation of FFPS matching a reasonable annual AOS profile, without an incremental charge, consistent with the current structure;
- providing priority receipt point capacity equal to 125 per cent of the renewal shipper's contract capacity;
- replicating the annual renewal option, based on a commitment to a transparent toll methodology, such as the status quo Tolling Principles or a cost-of-service methodology; and
- eliminating other unnecessary changes to the Tariff, so as to provide the renewal shippers flexibility comparable to what currently exists.

BP Canada suggested that although these changes to the NSO would not fully replicate what the renewal shippers contracted for, they could address the degradation of service that the NSO represents. In BP Canada's view, these changes would not result in the renewal shippers receiving unjustly discriminatory treatment because renewal shippers would not be similarly situated with the signatories to PAs under the NSO. It was BP Canada's assertion that the absence of renewal contracts justified some degree of distinctive treatment in the event that the Board approves the NSO.

Views of ACM

As a renewal shipper, ACM requested that the Board either direct Alliance to honour the existing ACM transportation agreements or modify the NSO to the extent necessary to provide renewal shippers with service that is substantially equivalent to the service they currently receive.

As part of any approval of the NSO, ACM requested that the Board:

- ensure that renewal shippers are entitled to continue to receive service under any approved NSO at equal volumes and equivalent terms of service under any approval it may grant as part of RH-002-2014;
- ensure that renewal shippers be entitled to PITS, regardless of their choice of receipt point, including permanent and temporary relocations, as well as diversions of receipt points; and
- ensure that renewal shippers' diversion nominations be treated equivalent in priority to interruptible transmission service.

ACM submitted that granting its requests would not constitute unjust and unreasonable tolls, tariffs or treatment of shippers. The Board has previously held that more secure access and term-differentiated tolls can be justified for shippers, like ACM, that have borne a greater risk than other shippers by signing up for long-term firm service on a pipeline.

ACM provided a copy of its existing agreements for service extending beyond 1 December 2015. ACM stated that it does not have the ability to unilaterally terminate these agreements but that it did not foresee a scenario in the near term where it would voluntarily cease to be a firm service shipper on the Pipeline. Noting the Board's jurisdiction to regulate the terms and conditions of service on Alliance, ACM indicated that it has not considered any remedies outside of Board processes. According to ACM, the Board has the ability to modify the terms of the proposed NSO to honour the existing agreements in the manner it has requested.

3.2.1 Views of the Board

The Board does not agree that renewal shippers have a perpetual right to continue to receive service under the NSO equivalent to that received under their existing contracts. The contracts themselves explicitly contemplate toll and tariff changes that may be approved by the Board from time to time. Further, the Board has authority, incidental to the exercise of its statutory authority under Part IV of the NEB Act, to affect contractual arrangements.[1] The Board also continues to hold the view expressed in its GHW-1-2007 Decision with respect to a prior Alliance application:

> [t]he Board agrees with Alliance that the contractual arrangements with its customers are the TSAs, the Toll Principles, the Toll Schedule and the General Terms and Conditions in its Tariff. While the proposed service is different from what exists now, it is Alliance's right to apply to the Board for changes to its Tariff. The Board is of the view that there is no founding compact beyond the Tariff.[2]

As set out more fully in Chapters 4, 5 and 6, the Board has approved the tolls and Tariff as just and reasonable. The approved tolls and Tariff apply to all transportation services provided by Alliance on or after 1 December 2015. The Board makes no determination as to the impact of its decision on the enforceability of renewals exercised by ACM and BP Canada, nor on any remedies that ACM or BP Canada may choose to seek under the terms of their contracts in a court of competent jurisdiction. Such questions are matters of

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[1] See *Saskatchewan Power Corporation v. TransCanada Pipelines Ltd.*, [1981] 2 S.C.R. 688.

[2] Alliance Pipeline Ltd., Reasons for Decision GHW-1-2007, September 2007; See also *Canadian Association of Petroleum Producers, GHW-R-1-2007* (December 2007) where the request for review was denied on the basis that CAPP had not raised a doubt as to the correctness of the GHW-1-2007 decision and *Canadian Association of Petroleum Producers v. National Energy Board et al*, 27 November 2007 where the Federal Court of Appeal denied CAPP's request for leave to appeal the review decision.

contract law. Any disputes in relation to such matters are better addressed in another forum.

Having considered the evidence of Alliance's consultations with renewal shippers, as well as the evidence of its consultations with existing and potential shippers described in Section 3.1 of these Reasons for Decision, the Board is satisfied that Alliance's consultation with renewal shippers was adequate.

3.3 Commercial Support

Views of Alliance

Alliance submitted that its consultations with over 60 supply and market customers, as well as more than 120 individual stakeholders, indicated that toll certainty in the form of a fixed toll was imperative in order to achieve commercial support and commitments from shippers. Alliance stated that the services and tolls it offered were seen by shippers as being competitive in the marketplace, as evidenced by the commercial support it had received to date for the NSO, and would allow Alliance to compete in both its supply and market areas. It was Alliance's view that in making a determination of whether the proposed fixed tolls are just and reasonable, the Board must take into account several factors, including the degree of market support that it had received for its NSO.

Between 12 December 2014 and the close of business on 30 March 2015, 32 PAs were executed for Zone 1 and Zone 2 FRS and FFPS, as well as Firm Delivery Service (FDS). Alliance posted a further capacity update on its website to the effect that capacity in Zone 2 with minimum contract terms of three years had surpassed 98 per cent of the Zone 2 target of 265 MMcf/d (7.50 $10^6 m^3/d$) and that Alliance had met its 1 Bcf/d (28.32 $10^6 m^3/d$) contracting capacity in Zone 1 for non-staged, three-year or longer FRS or FFPS commencing 1 December 2015.

Alliance submitted that it had devoted considerable effort to gathering commercial support following the filing of its Application with the Board. In Alliance's view, the "acid test" with regard to the acceptability of its NSO in the marketplace is the level of actual commercial support it has been able to achieve.

Alliance stated that it was not seeking Board approval of its NSO and the associated firm fixed tolls for a pre-defined period of ten years. Rather, Alliance was seeking Board approval of its NSO effective 1 December 2015. The fixed tolls for which Alliance was seeking approval are fixed for the initial term of a shipper's TSA commencing on or after 1 December 2015. Alliance indicated that it may seek to amend its fixed tolls for new or renewing shippers at any time after 1 December 2015.

Views of BP Canada

BP Canada was of the view that Alliance's Application did not warrant approval since it demonstrated very limited commercial support. BP Canada submitted that while Alliance proposed a 10-year levelized NRR of approximately $368 million, it only enjoyed $206 million

of commercial support. This figure represented 56 per cent annual support which, in BP Canada's opinion, was not a reasonable indicator of a just and reasonable rate.

BP Canada pointed out that 85 per cent of Alliance's commercial support was in the first five years. Consequently, Alliance's commercial support reflected less than 40 per cent of the 10-year period. BP Canada also noted that Alliance appeared to have included renewal shipper capacity in its commercial support figures. The fact Alliance was attempting to unilaterally alter those arrangements could not be relied upon as evidence of support for the NSO.

In order to depart from cost-based tolls, BP Canada submitted that the Board must conclude that the Application had been successfully tested in the market; in other words there must be evidence of strong commercial support from unaffiliated third parties. In BP Canada's view, Alliance had failed this test.

Additionally, BP Canada contended that in other situations where the Board had relied on market support as an indicator of just and reasonable tolls without relying on a cost-of-service methodology, market participants accepted all aspects of any trade-offs inherent in the inter-temporal tolling approach. That is, shifting of cost recovery between time periods was to the account of the same shippers. BP Canada stated that this was not the case in this circumstance, as Alliance appeared to have no contractual support for the latter part of the 10-year period.

3.3.1 Views of the Board

The Board acknowledges that commercial support for the NSO was an evolutionary process and that Alliance developed and discussed the proposed terms of the NSO with a number of stakeholders in order to create a service offering to meet the needs and requirements of shippers. In the Board's view, Alliance did not abuse its market power in deriving the proposed firm tolls. The Board recognizes that a number of shippers signed PAs for receipt, delivery, and full path services all predicated on the underlying fixed tolls. The Board is of the view that the level of contracting achieved by the close of the record, as well as the relative lack of shipper complaints before the Board in this proceeding, demonstrates commercial support for Alliance's NSO Application.

The Board considered BP Canada's argument that the Application had limited commercial support over the 10-year NRR. However, the Board notes that Alliance is not requesting approval of its NSO and the associated firm fixed tolls for a pre-defined period of ten years. Therefore, the Board did not find BP Canada's argument relevant in this regard.

Chapter 4

New Services

4.1 New Services Offering

4.1.1 Receipt Service

Views of Alliance

Alliance indicated that receipt service would be provided to shippers on a firm, seasonal and interruptible basis. All receipt service volumes would be transported to the new Alliance Trading Pool (ATP), where title transfers would be facilitated for shippers. Each shipper's contracted capacity would be converted to an energy equivalent for nomination, scheduling and ATP purposes.

FRS would consist of firm transportation service that could be contracted for a minimum term of three years and up to a maximum of 10 years. An FRS shipper would have the right to renew its TSA for the same or lower contracted capacity at the same receipt point, for a minimum of one year by providing Alliance with one year's advance notice of the renewal. The TSA would be renewed at the term-differentiated toll prevailing when the election to renew was made.

FRS shippers would also have the option of staging their contracted capacity in periodic tranche commitments. To be eligible, an FRS shipper would be required to hold a TSA with an initial term of five years or more, and an aggregate contracted capacity (including both FRS and FFPS volumes) averaging 1 400 $10^3m^3/d$ (49.44 MMcf/d) or more for the term of the TSA. Alliance stated that this option would provide flexibility for shippers by allowing contract volumes to be staged according to their production targets. The overall "staged capacity profile" that forms part of a shipper's firm TSAs would provide the volumetric commitments for each receipt point, and the timing of those commitments.

Under the seasonal service offering, shippers would have the option to bid for seasonal firm capacity available on the Pipeline for: (i) the period of five months from November 1 to March 31; (ii) the period of seven months from April 1 to October 31; or (iii) for any portion of the time periods described in (i) or (ii), including daily, weekly, or monthly portions of seasonal firm capacity.

Alliance also proposed a suite of interruptible service options. One such option was PITS, which Alliance asserted differs from regular interruptible service in that it helps firm shippers mitigate risks associated with interruptible service availability and pricing. An FRS shipper would be eligible to receive PITS at the shipper's contracted receipt point for a volume of gas up to the equivalent of 25 per cent of the shipper's contracted capacity. PITS would be scheduled after firm service but before interruptible transportation and diversions.

Receipt service shippers would have the option of nominating volumes from a receipt point on the Pipeline in one of two zones. Zone 1 would include all receipt points downstream of the

Blueberry Hill Compressor Station near Gordondale, Alberta. Zone 2 would include the Blueberry Hill Compressor Station and all receipt points upstream of that station.

For discussion on the toll design of FRS and PITS, see Chapter 5. Discussion on tolling for interruptible and seasonal service can be found in Chapter 6.

Views of Participants

B.C.-MNGD requested that the Board direct Alliance to recalculate its tolls based on a single receipt zone design. Further discussion on B.C.-MNGD's concerns with the proposed toll design is found in Chapter 5.

Two participants raised concerns with the terms and conditions of receipt service. These concerns are addressed in Section 4.2.

4.1.2 Delivery Service

Views of Alliance

Under the NSO, delivery service would provide shippers with transportation on a firm, interruptible and seasonal basis from the ATP to the Pipeline delivery point at the Canada-U.S. border.

Tolls for FDS include a fixed demand charge or an Index-Based Rate (IBR) option (FDS-IBR). Shippers could contract for FDS for a minimum term of one year, whereas shippers requesting FDS-IBR would be required to execute a TSA for a minimum term of five years. FDS shippers with initial TSA terms of three years or more and FDS-IBR shippers would have the right to renew their firm TSAs for the same or a lower contracted capacity for a minimum of one year by providing Alliance with one year's advance notice of the renewal. Such renewal would incorporate the prevailing toll when the election to renew was made.

Alliance proposed that under delivery service, each shipper's contracted capacity would be converted using a fixed energy conversion factor of 40.97 MJ/m^3 (1,100 Btu/cf) for nominations, scheduling and ATP imbalance purposes. FDS-IBR and FDS, with the exception of seasonal service, would be entitled to a Rich Gas Credit if the actual heat content of the commingled stream leaving the ATP were to exceed the fixed energy conversion factor. All eligible firm delivery shippers would receive their pro rata share of the Rich Gas Credit in proportion to their contracted volumes.

Seasonal service under the NSO would be made available for FDS. Shippers would have the option to bid for any seasonal firm capacity available during those periods described above for receipt service.

Views of Participants

No participants expressed concerns with the general concept of delivery service. However, BP Canada raised issues related to the terms and conditions of delivery service and, in particular, the Rich Gas Credit. These issues are addressed in Section 4.2.

4.1.3 Full Path Service

Views of Alliance

Alliance stated that it would continue to offer shippers full path service under the NSO, thereby allowing a shipper to nominate natural gas from a receipt point for delivery to the Pipeline delivery point at the Canada-U.S. border. As with receipt service shippers, full path shippers would have the option of nominating volumes from a receipt point in either Zone 1 or Zone 2.

Under the NSO, full path service would be provided by Alliance on a firm, seasonal or interruptible basis. Alliance indicated that a FFPS shipper's gas would bypass the ATP and would not be subject to commodity trading in the ATP except for any imbalances. Alliance specified that shippers could contract for FFPS for a minimum term of three years. FFPS shippers would have the right to renew their TSA for the same or a lower contracted capacity at the same receipt point for a minimum of one year at the term-differentiated toll prevailing when the election to renew was made by providing Alliance with one year's advance notice of the renewal.

Consistent with the offering for FRS shippers, FFPS shippers requesting service with initial TSA terms of five years or greater and an aggregate contracted capacity averaging 1 400 $10^3m^3/d$ (49.44 MMcf/d) or more for the term of the shipper's TSA would be allowed to stage their contracted capacity in a staged contract. Alliance indicated that the overall staged capacity profile that forms part of a shipper's firm TSAs would provide the volumetric commitments for each receipt point, and the timing of those commitments.

Full path shippers would have the option to bid for any seasonal firm capacity available during those periods described above for receipt service.

As with FRS, there would also be a suite of interruptible service options, including PITS. Alliance submitted that FFPS shippers would be eligible to receive PITS at the shipper's contracted receipt point for a volume of gas up to the equivalent of 25 per cent of the shipper's contracted capacity. PITS would be scheduled after firm service but before interruptible volumes and diversions.

In response to concerns raised by BP Canada regarding full path volumes bypassing the ATP, Alliance submitted that full path shippers do not have delivery access to ATP because such access would be incompatible with the attributes of full path service, including the ability to "heat-pack".

Views of BP Canada

BP Canada expressed concern that full path shippers do not have access to the ATP, other than for imbalance purposes. BP Canada suggested that the NSO could be modified to provide full access to the ATP to all shippers, regardless of service category. According to BP Canada, this could be achieved by letting FFPS shippers nominate using the ATP as a receipt point.

4.1.4 Alliance Trading Pool

Views of Alliance

Alliance stated that the ATP is a notional point connecting the receipt zones (Zones 1 and 2) with the delivery zone (Delivery Zone). According to Alliance, the ATP would facilitate the segmentation of services on the Pipeline into different service zones, providing a platform for receipt and delivery shippers to transfer title, and allowing shippers to take advantage of Term Park and Loan (TPAL) services. All shipments under FRS contracts would flow into the ATP and title transfers would be transacted in energy. FFPS shippers' gas, on the other hand, would bypass the ATP and, therefore, would not be subject to commodity trading.

Alliance indicated that the decision to create the ATP was closely tied to the decision to introduce segmented services, in direct response to feedback received from Alliance shippers. According to Alliance, most producers preferred to hold pipeline transportation to the first liquid trading point and focus their resources on drilling and producing gas. Alliance submitted that marketers, large producers with marketing departments, and end users prefer to source their supplies in large liquid and transparent hubs or pools. Production over the gathering area of a pipeline can be aggregated into a common pool and made available through electronic trading platforms.

Alliance was of the view that, in addition to compatibility with the new service and toll design, the ATP addressed longstanding concerns of shippers regarding liquidity and pricing transparency with respect to the Canadian Receipt Pool (CREC).[3] Alliance indicated that shippers showed a preference for a centralized trading pool in consultations regarding the improvement of CREC. Alliance explained that approximately 90 per cent of gas transactions on the Pipeline are completed under bilateral agreements at the receipt points (through CREC), and suggested that both liquidity and pricing transparency would be improved at the ATP because any receipt shipper would be able to transact with any delivery shipper, regardless of receipt point. In Alliance's view, the development of a common pool would also be more attractive to financial and other non-physical market participants.

Alliance indicated that, as the Pipeline operator, it could not ensure transparency and liquidity at the ATP. However, Alliance stated that it would encourage the development of an active short-term market through partnerships with the Natural Gas Exchange Inc., for example, which

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[3] CREC is defined in Alliance's General Terms and Conditions currently in effect as a deemed location immediately downstream of the receipt points, maintained for each shipper, forming itself a receipt point from which volumes may be scheduled for transportation or nominated to or from for purposes of effecting title transfers.

would provide clearing and trading services at the ATP. According to Alliance, encouraging spot and short-term transactions at the ATP would improve liquidity and transparency.

In response to BP Canada's suggested modifications to the NSO in regard to receipt point title transfers and access to the ATP, Alliance indicated that sales of gas at receipt points may continue under the NSO. According to Alliance, producers who do not hold Alliance capacity could sell their gas to an Alliance shipper at the plant gate.

Views of BP Canada

BP Canada submitted that the dual-receipt zones and delivery zone configuration proposed in the NSO added considerable complexity to the Alliance Pipeline System. It was BP Canada's view that this configuration was unnecessary on a bullet line without a single delivery point within Canada. However, BP Canada stated that if the Board was to find this tolling structure justified, the cost allocation mechanisms approved for Alliance should be more reflective of the functionalization of facilities on the Pipeline. Further discussion on the cost allocation between zones can be found in Chapter 5.

In addition, BP Canada asserted that Alliance has reduced liquidity for shippers by introducing a receipt toll upstream of the ATP. BP Canada submitted that whereas all current shippers have the ability to trade at CREC, non-shipper producers under the NSO could not sell directly into the ATP. Rather, they could only sell into the Pipeline through specific shippers that have access to specific receipt points. BP Canada suggested modifying the NSO so that all shippers continue to have the option of receipt point title transfers upstream of any toll being charged. In this regard, BP Canada was of the view that CREC and the ATP could co-exist.

4.1.5 Rich Gas Services

Views of Alliance

Alliance indicated that it would continue to transport dense phase rich gas. In doing so, Alliance proposed to revise the quality specifications of gas under its tariff to provide additional rich gas optionality and commercial certainty for producers and shippers. Under the NSO, gas would be transported on the Pipeline with a Hydrocarbon Dewpoint (HCDP) specification of up to -5°C, which is an increase from the -10°C specification currently in place.

Alliance maintained that the -5°C HCDP specification would not result in an increased safety risk because the change would not affect operating parameters related to transportation of dense phase rich gas or the associated conditions for operations that have been implemented over the past 14 years. Practices for ongoing condition monitoring, assessment, and maintenance of the Pipeline would remain consistent with the conditions set out in the GH-3-97 Decision and associated leave to open orders.

In addition to the new revised HCDP specification, Alliance proposed service alternatives that were intended to allow producers and shippers to have gas transported on the Pipeline that is richer than the new HCDP specification. In this regard, Alliance sought approval for four commercial initiatives:

(a) Firm Rich Gas Service (FRGS), whereby a shipper could contract, on a take-or-pay basis, to pay a surcharge for each degree that its volumes exceed the HCDP specification. Alliance proposed a surcharge of $\$10.74/10^3m^3/°C$ HCDP per month for each degree that the shipper's gas exceeds the HCDP specification. To be eligible for FRGS, a shipper would be required to hold an FRS or FFPS TSA for a minimum initial term of three years at the same receipt location specified in the FRGS agreement.

(b) Shipper Paired Gas (SPG), whereby Alliance would facilitate firm shippers' requests to pair gas with gas from an upstream receipt location so as to blend the commingled stream to meet the -5°C HCDP specification. Alliance indicated that there would be no charge for facilitating an SPG arrangement.

(c) Revised HCDP, whereby Alliance could, from time to time, post a revised temporary HCDP specification for a specified receipt point or region on the Pipeline.

(d) HCDP Specifications/Volume Excess, whereby Alliance would monitor the HCDP of gas flowing to the Pipeline at all receipt points. Where gas tendered at a receipt point exceeded the allowable HCDP specification, FRGS or SPG, Alliance would determine whether to allow the flow to continue (in which case an HCDP off-specification surcharge would apply), or whether to reduce the flow at the receipt point.

Alliance proposed an HCDP off-specification surcharge of $\$0.44/10^3m^3/°C$ HCDP, which would, in Alliance's view, provide an economic incentive for shippers to flow gas at or lower than the -5°C HCDP specification. Alliance submitted that raising the HCDP specification to -5°C system-wide provides benefits to all shippers, but also means shippers must remain within the specification in order for the Pipeline to provide reliable service.

Views of Participants

No participants expressed concerns with respect to the proposed rich gas services.

4.1.6 Views of the Board

The Board is of the view that each of the new services proposed by Alliance is reasonable and will provide shippers with the flexibility to select the specific services to meet their needs. The Board notes that these services were largely unopposed by users of the Pipeline and other interested parties. The Board approves the new services as applied for.

The Board acknowledges BP Canada's concerns that the segmentation of services under the NSO could add complexity to the Alliance Pipeline System. However, the Board is of the view that any additional complexity is justified in that the new services are responsive to feedback received from shippers. The Board is supportive of Alliance's efforts to adapt to the evolving needs of its shippers, and encourages Alliance to continue to work with shippers in a way that will promote the ongoing use and usefulness of the Pipeline. In the Board's view, Alliance's success in attracting committed capacity through the PA process, as discussed in Chapter 3, is demonstrative of the reasonableness of the new services offered, including the introduction of the ATP and the segmentation of service into receipt

and delivery. The Board notes that Alliance will continue to offer full path service, thereby providing shippers with an opportunity to bypass the ATP and receive service similar to that currently in place.

Over the course of the proceeding, the Board heard discussion regarding the expected liquidity of the ATP and whether there is a continued need for CREC. The Board is of the view that while the evidentiary record has demonstrated significant interest in receipt and delivery services, the record has not adequately demonstrated that a formal tool is necessary in facilitating transactions between non-shipper producers and receipt shippers. The role of non-shipper producers on the Pipeline under the NSO was not well-established, nor was the need for transactions outside of the ATP under the new services. The Board considers the ATP to be a sufficient mechanism to facilitate the sale of gas between receipt and delivery shippers, and notes that transactions between non-shipper producers and receipt shippers can continue at receipt points under the NSO, albeit without CREC. In this regard, the Board has not been persuaded that CREC is a necessary addition to the NSO for 1 December 2015. Should Alliance or its shippers have concerns with the ongoing liquidity of the ATP, the Board expects Alliance and its shippers to work together to develop an appropriate solution, which may include CREC.

The Board finds that BP Canada's request that full path shippers be granted access to the ATP as a receipt point is incompatible with the full path service offered by Alliance, including the ability to "heat pack". The Board is of the view that a shipper could utilize delivery service if it intended on transporting gas from the ATP to the Canada-U.S. border.

4.2 Terms and Conditions

Views of Alliance

Alliance highlighted several attributes, or terms and conditions, of the new services described in the Application. In particular, Alliance described the Rich Gas Credit, receipt point flexibility, demand charge credits, ATP account imbalances, and fuel provisions.

Regarding the proposed Rich Gas Credit, Alliance indicated that the fixed energy conversion factor for delivery service would be compared quarterly to a calculated gross heating value of the commingled stream downstream of the ATP. If the quarterly average gross heating value were to exceed the energy conversion factor, FDS and FDS-IBR shippers would receive a Rich Gas Credit on their invoices in the fourth month following the measured quarter. Alliance stated that the introduction of Rich Gas Credits would be Alliance's way of providing its delivery shippers with the benefit of an increased heat content of the commingled stream without constantly adjusting either the amount of energy available for their volumetric contract or the energy conversion factor.

According to Alliance, there would be no cross-subsidization in relation to FDS shippers, the heat content of their gas, or the Rich Gas Credit. Alliance explained that all FDS shippers receive

the commingled common stream at the ATP, and therefore, there are neither rich gas nor lean gas delivery shippers. Alliance suggested that if delivery shippers desired heat packing benefits, they could subscribe to FFPS.

Alliance indicated that receipt point flexibility would be provided to FRS and FFPS shippers to schedule diversions and to relocate their TSA receipt points. According to Alliance, these service attributes provide FRS and FFPS shippers with the flexibility to respond to operational and market conditions that could affect the availability of supply at their contracted receipt points. Diversions and relocations would be accommodated at Alliance's sole discretion, which Alliance suggested is similar to current practices.

Nominations at the diverted-to receipt point would be scheduled according to the following ranking: (i) firm volumes; (ii) PITS volumes; (iii) interruptible volumes; and (iv) diversions. In Alliance's view, scheduling diversions below interruptible service encourages shippers to designate their contracted capacity at locations where they have production and intend to flow. Alliance contended that this provides greater certainty regarding capacity availability and, accordingly, allows Alliance to attract incremental service revenues to the Pipeline. It was Alliance's understanding that only cost-of-service pipelines rank diversions ahead of interruptible service.

Alliance submitted that a demand charge credit would be payable to a firm shipper if a reduction in Alliance's physical capability prevented a shipper from having its gas transported in accordance with its TSA, provided that the shipper is unable, using reasonable commercial efforts, to mitigate such a reduction. Alliance indicated that the terms under which it would pay demand charge credits were developed through discussions with prospective shippers during the PA process.

With respect to ATP account imbalances, Alliance stated that it would be the responsibility of each shipper on a daily basis to comply with the balancing requirements of the ATP in accordance with the Tariff. If the ATP account imbalance of a shipper was outside of the applicable imbalance tolerance specified in the Tariff, the shipper would be subject to a daily balancing fee. The balancing fee would be the higher of: (i) $0.16/GJ/d; or (ii) the highest TPAL fee last awarded by Alliance.

It was Alliance's view that the proposed imbalance fees were set to a level that would provide an economic incentive for shippers to keep their accounts within the imbalance tolerance, which would, in turn, promote the efficient use and operation of the Pipeline and result in the equitable treatment of all shippers. Under the NSO, revenues from the daily balancing fee would be to the account of Alliance. It was Alliance's submission that the proposed balancing fees are not meant to be compensatory for Alliance but rather encourage behaviour that optimizes the availability of capacity for the benefit of Alliance and its shippers. Alliance indicated that it incurs administrative costs in managing imbalances and loses the opportunity of available capacity for discretionary services. Alliance was also of the view that the crediting of such fees back to shippers would reduce their effectiveness.

Alliance suggested that a shipper could keep imbalances within the imbalance tolerance by: (i) conducting a title transfer; (ii) contracting for transportation services on the Pipeline;

(iii) revising its nomination; or, (iv) entering into a TPAL agreement. With respect to TPAL service, Alliance explained that this was a service that would be offered periodically for a fixed term and for a negotiated fee between $0.00/GJ/d and $0.54/GJ/d. Under Alliance's proposal, all revenues generated from TPAL service would accrue to Alliance. It was Alliance's view that this approach was consistent with the overall risk/reward balance of the NSO.

With respect to the terms and conditions for fuel, the NSO specifies that shippers are to provide fuel-in-kind for the fuel consumed by Alliance in the provision of services. The fuel rate for each service would be set annually as a percentage of actual throughput. It was Alliance's view that this would provide for additional cost stability for shippers rather than the monthly and mid-month adjustments that currently occur. Alliance contended that its proposal in this regard is consistent with practices on other Canadian and U.S. pipelines.

Alliance observed that BP Canada raised a number of issues throughout the proceeding regarding the terms and conditions in the NSO. In response, Alliance maintained that none of these issues were substantial in nature and that BP Canada had not provided any alternatives to the NSO proposal other than the status quo.

In Alliance's view, it would be impossible to provide identical service attributes to those currently in place, given the significant changes in Alliance's move to an "at-risk" business model. Alliance submitted, however, that it is providing firm and interruptible service attributes through the NSO that are equitable, simpler to access by all shippers, and reasonably comparable to its existing services.

With respect to BP Canada's concerns about the new processes for energy nominations, Alliance indicated that the energy conversion factor at each receipt point would be determined based on historical heat content information, and Alliance committed to consult with its shippers regarding the frequency at which the energy conversion factors should be updated.

Views of B.C.-MNGD

Addressing receipt point flexibility under the NSO, B.C.-MNGD submitted that the diversion rules proposed by Alliance were unfair to B.C. shippers. B.C.-MNGD observed that Zone 1 shippers that diverted to a receipt point in Zone 2 would pay Zone 2 tolls for the term of the diversion, while Zone 2 shippers that diverted to a receipt point in Zone 1 would continue to pay Zone 2 tolls. B.C.-MNGD argued that the higher tolls within Zone 2 would make it more difficult to nominate unused receipt capacity to Zone 1 shippers, which would result in reduced opportunity for B.C. shippers to fully utilize their transportation entitlements.

Views of BP Canada

BP Canada submitted that the NSO proposal should be rejected on the basis that the Application would not result in just and reasonable tolls. BP Canada argued that this was in part due to Alliance's new and untested terms and conditions of service, which BP Canada viewed as being unnecessary, and posing serious operational and financial issues for shippers. BP Canada was of the view that the NSO structure proposed by Alliance was more restrictive than the status quo for natural gas volume and energy nominations, and that the terms and conditions were likely to create operational inefficiencies for shippers and increase the costs of shipping on the Pipeline

through incremental fees and penalties. BP Canada submitted that, to the extent any of the proposals are implemented, the Board should direct Alliance to consult stakeholders on how to manage operational details.

BP Canada also raised concerns with respect to many of the specific terms and conditions highlighted by Alliance in the Application.

Regarding the Rich Gas Credit, it was BP Canada's view that Alliance would be cross-subsidizing lean gas shippers from rich gas shippers by using an average heat value of 1,100 Btu/cf (40.97 MJ/m3) to determine who receives the credit. In addition, BP Canada argued that: (i) with the Rich Gas Credit being paid quarterly, there was a risk of a timing mismatch between when shippers contribute rich gas and when payments are made; and (ii) Alliance was expropriating the value of the transportation efficiency derived from rich gas below 1,100 Btu/cf (40.97 MJ/m^3) by not rewarding it. BP Canada was of the view that the Board should require Alliance to retain the existing methodology for heat packing on all volumes, where heat content is recognized on a shipper-specific basis. Alternatively, if a Rich Gas Credit were instituted, BP Canada submitted that Alliance should provide value to all shippers based on their actual heat content, and not just that beyond 1,100 Btu/cf (40.97 MJ/m^3).

It was BP Canada's view that the NSO significantly reduces receipt point flexibility and increases Alliance's revenues relative to the status quo. According to BP Canada, the reduction in flexibility would result in greater costs for receipt shippers for two reasons. First, unlike existing service, shippers would incur charges (i.e., PITS toll, overrun quantities charge, or interruptible tolls) for receipt quantities in excess of contracted capacity. Second, opportunities to divert capacity may be restricted due to prioritization of scheduled service and Alliance's sole discretion over whether to grant a diversion. BP Canada sought retention of the ranking of receipt point diversions and priority to interruptible service.

BP Canada was of the view that the proposed balancing fees were not justified or necessary given that Alliance has managed linepack swings successfully for the past 15 years. BP Canada asserted that the proposed balancing fee was punitive because the penalty would be imposed on any day a shipper's imbalance exceeded the tolerance, regardless of whether the imbalance has any potential adverse effect on Pipeline operations, integrity, or safety in the circumstances. In addition, BP Canada considered the "tools" available to shippers to manage ATP imbalances both ineffective and unreliable, particularly given that TPAL service would not be consistently available. Further, BP Canada requested that the Board deny the proposed charges for TPAL service on the basis that these charges increase costs to shippers and provide revenues to Alliance without demonstrated system benefits.

BP Canada submitted that the NSO would have more complex fuel management practices than the status quo. BP Canada observed that FRS shippers would have to contract capacity for their downstream fuel requirement, and it was BP Canada's view that Alliance's proposed annual adjustments of the fuel rate could potentially erode shippers' contracted capacities.

In addition, BP Canada expressed the following concerns with the terms and conditions on the basis that they unreasonably impose costs and risks on shippers, differ substantially from those that have been in place for the last 15 years, and were not justified by Alliance:

- AOS was to be eliminated and replaced with PITS, interruptible service, and seasonal service;
- the overrun quantities charges have not been required in the past, and these charges could result from neither BP Canada nor Alliance having control over common stream operators at the receipt points;
- to allocate capacity to another shipper under the NSO, the original shipper would be required to formally assign the capacity to the nominee who, in turn, would be required to assume the same liability as the nominating party. BP Canada submitted that this would imply a change in the business risk relationship;
- energy nominations would be more complicated because they would rely on the establishment of individual energy conversion factors for each receipt point. BP Canada argued that energy conversion factors that reflect dated heat content, or are otherwise mismatched with actual heat content, would create both account reconciliation and system capacity challenges; and
- common stream operators at receipt points would have to deal with new processes that require "locking in" daily allocations prior to the trading day. BP Canada argued that shippers are likely to be repeatedly caught between common stream operator allocations that differ from Alliance's recognized allocations, creating uncertainty and operational risk.

Finally, BP Canada suggested that, to the extent new penalties or charges for imbalances, TPAL, and overrun quantities are allowed, their revenues should be directed to shippers using a deferral account. It was BP Canada's submission that these charges increase costs to shippers and provide revenues to Alliance without demonstrated system benefits. BP Canada was of the view that any such revenue generated should be credited to shippers because those shippers that are out of balance are more likely to cut into the flexibility of other shippers, rather than preclude Alliance from earning revenue. BP Canada also contended that crediting these revenues to Alliance would provide a direct incentive for Alliance to prefer penalties over other means to incent proper shipper behaviour and limit operational options for shippers to manage their accounts.

4.2.1 Views of the Board

Through the NSO, Alliance offered new service options that would allow producers and shippers to obtain services that are attractive for their specific needs. In the Board's view, these new services represent an unbundling of the services currently offered to users of the Pipeline. The Board recognizes that while some shippers may benefit from the flexibility introduced through this unbundling of services, other shippers may face greater costs, as they will now pay for services and attributes that they have previously received at little or no cost. The Board views this unbundling as reasonable, particularly given that the NSO is designed such that Alliance will depend on additional revenues from individual services in order to offset certain risks built into the NSO.

The Board is of the view that the terms and conditions applied for by Alliance will adequately support the new services, as well as Alliance's ability to recover

its costs. Accordingly, the Board approves, as filed, Alliance's proposed terms and conditions.

The Board considers many of BP Canada's concerns to be directed towards the way in which service would change under the NSO relative to the existing model. In the Board's view, the NSO is a significant departure from the cost-of-service model currently in place, which makes a comparison of their attributes problematic. The relative certainty of cost recovery under the existing cost-of-service model supports the existing service attributes. In the Board's view, these service attributes could not be incorporated into the NSO without introducing material risk to Alliance or altering the value of, or the relationship among, each of the new services. For this reason, the Board views Alliance's proposed terms and conditions related to the Rich Gas Credit, receipt point flexibility, fuel management, the elimination of AOS, and penalties and charges for imbalances, TPAL and overrun quantities as appropriate.

The Board is of the view that revenues from imbalance fees, TPAL charges and overrun quantities charges should not be directed to shippers by way of a deferral account. TPAL is a new service to be provided on the Pipeline and the Board finds it appropriate that shippers compensate Alliance for the use of this service. In addition, the Board considers that the imbalance fees and overrun quantities charges instill discipline on shippers and act as a deterrent to actions by shippers that are detrimental to the operation of the system. In the Board's view, this provides a practical system benefit. While other shippers may be harmed by the detrimental actions of certain shippers, Alliance loses the opportunity of available capacity for discretionary services. This could adversely affect Alliance's ability to recover its costs. For this reason, the Board considers it appropriate that revenues from penalties and charges accrue to Alliance's account.

BP Canada also expressed concerns about the terms and conditions regarding allocating capacity from one shipper to another, the new processes for energy nominations at receipt points, and the "locking in" of allocations by common stream operators. The Board has not been persuaded by BP Canada's evidence that these issues warrant amending the terms and conditions of service prior to gaining experience with the NSO. In the Board's view, these issues are neither sufficiently substantial nor urgent, and would be better addressed through consultations between Alliance and its shippers.

The Board was not persuaded by B.C.-MNGD's argument regarding the treatment of diversions between Zones 1 and 2. While the Board acknowledges a certain asymmetry in the tolls payable when diverting from one zone to another, the Board finds it reasonable for Zone 2 shippers to pay Zone 2 tolls regardless of the receipt point used, as this is consistent with the nature of the shipper's take-or-pay TSA. In the alternative, allowing Zone 1 shippers to divert to Zone 2 receipt points at no extra charge could create detrimental incentives.

The Board is of the view that the terms and conditions in the NSO, as set out by Alliance, represent a starting point; they are adequate to support the NSO without disadvantaging Alliance or its shippers. The Board notes that contractible capacity has been largely subscribed for the next five years, and few parties have expressed concerns with Alliance's proposed terms and conditions of service. However, these terms and conditions are untested and may have unanticipated impacts on Alliance and/or its shippers. For this reason, the Board expects Alliance to continue to consult with its shippers on the terms and conditions of service, including those discussed in this Decision. The Board notes Alliance's commitment to consult with its shippers regarding the frequency at which the energy conversion factors for receipt service should be updated.

To the extent that unanticipated impacts arise as a result of the terms and conditions, parties are expected to negotiate and develop resolutions that are mutually agreeable. Any Tariff changes are to be filed with the Board, for approval.

Chapter 5

Toll Design

5.1 Development of New Services Offering

5.1.1 Contractible Capacity

Views of Alliance

Alliance made 1,325 MMcf/d (37.53 $10^6m^3/d$) of contractible capacity available in both receipt and delivery service under the NSO. In doing so, Alliance submitted that it had offered firm service to the maximum extent possible. Alliance indicated that this level of contractible capacity represents Alliance's capability to provide firm service on an annual basis with targeted 100 per cent reliability. It is also comparable to Alliance's current annual firm service contract capacity of 1,325 MMcf/d (37.53 $10^6m^3/d$), which underpinned the original regulatory authorization and construction of the existing Pipeline facilities.

After accounting for capacity requirements for fuel as well as capacity reserved for those shippers that renewed their existing TSAs, Alliance made 1,265 MMcf/d (35.82 $10^6m^3/d$) of contractible capacity available for FRS and 1,245 MMcf/d (35.25 $10^6m^3/d$) available for FDS and FFPS (subject to contracted capacity committed to FRS). The FRS capacity was allocated between Zones 1 and 2. Initially, 665 MMcf/d (18.83 $10^6m^3/d$) was offered for contracting in Zone 1 and 600 MMcf/d (16.99 $10^6m^3/d$) was offered for contracting in Zone 2. However, on 16 September 2014, Alliance advised its shipper task forces that it had revised the allocation of contractible capacity between the zones due to greater interest in Zone 1 service relative to Zone 2 service. Under the re-allocation, a maximum of 1,000 MMcf/d (28.32 $10^6m^3/d$) was offered for contracting in Zone 1. For Zone 2, Alliance offered 600 MMcf/d (16.99 $10^6m^3/d$) less the amount of contracted Zone 1 receipt capacity in excess of 665 MMcf/d (18.83 $10^6m^3/d$).

In a December 2014 update on available capacity, Alliance advised that it no longer had capacity to offer for non-staged, three-year or longer, Zone 1 FRS or FFPS commencing 1 December 2015. In a subsequent update in March 2015, Alliance indicated that contracts with minimum terms of three years had surpassed 98 per cent of allocated capacity in Zone 2.

According to Alliance, numerous consultations were held with shippers active in both Zone 1 and Zone 2. Following Alliance's 16 September 2014 notice of its intent to increase the Zone 1 capacity available through the PA process, some shippers expressed concern about the potential impact on Zone 2 capacity availability. However, Alliance indicated that some Zone 2 shippers had also expressed apprehension about making commitments for Zone 2 capacity due to the uncertainty of future B.C. LNG projects. Alliance indicated that it was unaware of how much of the interest in FRS Zone 1, if any, was a result of lower tolls from Zone 1 to the ATP than from Zone 2. Alliance suggested that many factors influence shippers' decisions regarding capacity commitments, and observed that task force members with production in Zone 2 had not asserted that the Zone 2 toll would be prohibitive.

Alliance stated that any capacity remaining uncontracted after the PA process may be offered at a later date through an open season process.

Views of B.C.-MNGD

B.C.-MNGD argued that reducing the capacity available to Zone 2 producers would result in reduced options for the transportation of B.C. gas to the Chicago market. It contended that, in the absence of another explanation on the record, it was reasonable to surmise that the difference between Zone 1 and Zone 2 tolls may be the cause of Alberta shippers procuring the bulk of Pipeline capacity. B.C.-MNGD also suggested that while procurement by Zone 2 producers has been low, interest may shift in the future.

Views of BP Canada

BP Canada submitted that Alliance calculated its tolls based on capacity that was significantly less than the Pipeline's actual historical throughput. It was BP Canada's view that Alliance was unduly and unreasonably limiting supply by truncating capacity under its stated tolls.

5.1.2 Views of the Board

The Board is of the view that the Pipeline capacity made available for firm contracting is reasonable. While the Board recognizes that the actual average capacity of the Pipeline is higher than 1,325 MMcf/d (37.53 $10^6m^3/d$), the Board finds Alliance's approach to offer only capacity for which it can target 100 per cent reliability to be sensible. Additional capacity may only be available at certain times or under certain conditions. Moreover, the Board notes that the contractible capacity made available under the NSO is consistent with the amount of contractible capacity in place since the inception of the Canadian portion of the Pipeline, and the Board has not been persuaded that a change is beneficial or necessary.

Concerns were raised regarding the re-allocation of contractible capacity from Zone 2 to Zone 1. The Board does not share these concerns. Shippers contracted a substantial amount of the re-allocated capacity available for FRS in Zone 1 and Zone 2, and the Board views this as indicative of market acceptance for the levels of contractible capacity made available in each receipt zone. The Board agrees with Alliance that many factors may influence shippers' decisions regarding capacity commitments, and the Board is of the view that there is insufficient evidence to conclude that Zone 2 tolls were the cause of the re-allocation of capacity. However, the Board agrees with B.C.-MNGD that demand for FRS in Zone 1 and Zone 2 may shift in the future. In these circumstances, the Board expects Alliance to consult with its shippers to determine an availability of contractible capacity across zones that will best reflect shipper needs and optimize the use of the Pipeline. For these reasons, the Board finds the allocation of contractible capacity between zones to be reasonable at this time.

5.1.3 Notional Revenue Requirement

Views of Alliance

Alliance submitted that a key consideration in its fixed toll determination for its medium- and long-term new services was the development of the fixed NRR: a cost-based, long-term revenue requirement forecast covering the 10-year period from 2016 to 2025. In order to make the firm fixed tolls under the NSO competitive and attractive, Alliance was of the view that material reductions in many of the cost components, relative to the current toll principles, were required.

Alliance suggested that the Board's consideration of the NRR should be regarded as only one factor to be taken into account in the determination of whether the long-term fixed tolls of the NSO are just and reasonable. Alliance would assume cost and revenue risk under the NSO, and for this reason was not seeking the Board's approval of its cost structure or individual components of the NRR. Alliance submitted that the NRR was included in the Application solely to illustrate the starting point for the derivation of the fixed tolls.

In Alliance's view, the levelization of the NRR was a key aspect in its ability to meet the needs of its shippers for long-term toll certainty because the annual values of the NRR would otherwise change each year with depreciation and general cost escalation. If the Board were to direct changes to any components that make up the NRR, and by doing so require Alliance to materially adjust its fixed tolls upwards or downwards, it was Alliance's position that either Alliance or its prospective shippers would have the right to terminate each PA. Changing select aspects of the package, in Alliance's view, would undermine the entire NSO.

Alliance submitted that once it determined its 10-year cost-based revenue requirement, the next step was to allocate each cost component's 10-year forecast to the three toll design zones (Zone 1, Zone 2 and the Delivery Zone). Alliance stated that each element of the forecasted cost components that are a function of rate base were allocated to the respective toll design zone based on the asset net book value of the Pipeline. According to Alliance, certain cost elements, such as Operation and Maintenance (O&M) expenses and property taxes, could be directly allocated to the applicable toll design zones, while other items, such as indirect O&M expenses and General and Administrative (G&A) expenses, were allocated using direct allocated O&M expense proportions across the toll design zones. The final step in the NRR classification and allocation process was to levelize the 10-year revenue requirement forecast to arrive at a single fixed amount for each toll design zone.

In response to BP Canada's comments, Alliance stated that its cost allocation policy properly segments the NRR between costs associated with the transportation of natural gas to the ATP (receipt) and costs associated with transportation from the ATP (delivery). Alliance contended that BP Canada had introduced an inconsistency in its suggested alternative allocation methodology by shifting mainline pipe costs from Zone 1 to the Delivery Zone, while leaving the cost of mainline compression in Zone 1. According to Alliance, compression and mainline pipe assets typically go hand-in-hand in the provision of natural gas transportation services, whereas BP Canada suggested separating the two. Alliance noted that under the BP Canada proposal, there would be a shift of the cost of mainline compression to the Delivery Zone, resulting in a

cost shift totaling $92 million, or $0.18/Mcf, which, in Alliance's view, created an inappropriate cross-subsidy.

Views of BP Canada

BP Canada stated that it was unclear how the levelization of the NRR was achieved because Alliance did not: provide a meaningful revenue projection; demonstrate that the tolls reflect full utilization of the Pipeline; or, account for new revenue sources (e.g., imbalance penalties). Accordingly, BP Canada asserted that the Board could not conclude Alliance would not over-recover its reasonable costs and, in the process, earn excessive returns over the levelized term. For this reason, BP Canada was of the view that the Board should deny Alliance's Application on the grounds that it did not result in just and reasonable tolls.

BP Canada submitted that the cost allocation between zones embedded in the tolls was flawed and would create a cross-subsidy inconsistent with the appropriate cost causation/user pay principles, or the equal treatment of similarly situated shippers. In BP Canada's view, Alliance had failed to make any justification for its distorted allocation.

BP Canada argued that a substantial portion of the net book value associated with Alliance's mainline facilities had been allocated to Zone 1 and, as a result, Alliance had assigned the lion's share of the revenue requirement to Zone 1. According to BP Canada, if these assets were instead assigned entirely to the Delivery Zone on the grounds that the mainline pipeline is principally associated with delivery service, the resulting net book value allocation factors would change dramatically, shifting weight from Zone 1 to the Delivery Zone.

BP Canada also argued that it did not agree that Alliance's proposed receipt services involved the transportation of gas from receipt points in Zones 1 and 2 to the ATP via the mainline because the ATP is a notional point and not a physical location. According to BP Canada, FRS provides the right of a shipper to flow gas through an Alliance meter at a receipt point. As the gas passes through that meter, it is accounted for at the ATP. BP Canada submitted that since the ATP is a notional location, it is impossible to apply distance-based tolling and therefore, in BP Canada's view, it was reasonable to allocate lateral costs to the Delivery Zone.

5.1.4 Views of the Board

The Board did not rely on the NRR or the associated cost information in its assessment of the Application. The Board is of the view that the assumptions used in the NRR, as well as the levelization over a 10-year period, obfuscate the financial outlook of the Pipeline and do not provide a sound basis on which to derive tolls. For this reason, the Board did not place any material weight on the NRR in determining whether the proposed tolls were just and reasonable. Instead, the Board relied on the appropriateness of the PA process and market acceptance of the NSO, as discussed in Chapter 3. The Board notes that if Alliance's Application had been filed under a traditional cost-of-service model, the information provided in the NRR would be inadequate. The Board is of the view that there would be little value in using the NRR in the determination of future tolls.

As a result of this finding, it was not necessary for the Board to consider BP Canada's submission that the cost allocation between zones embedded in the tolls was flawed and would create a cross-subsidy inconsistent with the appropriate cost causation/user pay principles, or the equal treatment of similarly situated shippers.

5.2 Firm Service Tolls

The Board's mandate when considering a proposed toll methodology is to determine whether the resulting tolls will comply with the requirements of sections 62 and 67 of the Act. The essential requirements that tolls be just and reasonable and not unjustly discriminatory therefore guide the Board's consideration. In discharging its mandate, the Board considers all relevant factors specific to each application. This section provides the Board's considerations of the proposed toll methodology for firm service tolls under the NSO.

Views of Alliance

Methodology

Alliance described the tolling methodology originally approved by the Board as a single common toll for all shippers, plus a surcharge for receipt at Taylor-Aitken Creek to reflect the extra shipping distance. In contrast, the NSO reflected a zone-based differentiation into two receipt demand charges and one Delivery Zone demand charge, which could be levied separately for services into and from the new ATP, or added together for through service to the U.S. border.

Alliance stated that a departure from the existing negotiated contractual framework was required. In Alliance's view, low renewal levels of its existing contracts signaled that a suite of services and flexibility in tolling options was needed to attract and retain volumes on the Pipeline. According to Alliance, the NSO was designed to ensure the long-term economic viability of the Pipeline and was developed in a manner that was cognizant of "cost-based" parameters. However, the NSO deviated from the traditional cost-of-service tolling model and reflected a more dynamic and flexible market-focused approach. Alliance stated that it was seeking the necessary tariff, toll, and service agreement flexibility to effectively respond to evolving market conditions.

Alliance submitted that it has been successfully marketing its NSO through its PA process. A significant number of shippers signed PAs for receipt, delivery, and full path services, all predicated on Alliance's proposed zonal allocation methodology and the underlying firm tolls. It was Alliance's view that such commercial support was a testament to the appropriateness of the zonal allocation methodology and related tolls.

Alliance used a fixed NRR in determining the zone-based firm demand charges. According to Alliance, the NRR illustrates that the proposed firm tolls are not out of line with tolls that would be derived using more traditional tolling parameters. However, Alliance submitted that the NRR should be regarded as just one factor to be accounted for in assessing the justness and reasonableness of the proposed firm tolls. In Alliance's view, the Board should also account for factors such as the risk that Alliance is assuming, prevailing market conditions, and the degree of market support Alliance has received for its NSO.

Alliance determined a fixed postage stamp demand charge for each toll design zone utilizing the associated fixed revenue requirement from the NRR and a fixed level of firm billing determinants for each toll design zone. This postage stamp toll design was described as being simpler and easier to administer than a distance-based tolling design that would have yielded many different toll levels. The tolls for each of the firm service categories were determined by aggregating the postage stamp demand charges of the applicable toll design zones. For example, the fixed toll for FFPS from Zone 2 would be equal to the sum of the Zone 1 receipt demand charge, the Zone 2 receipt demand charge, and the delivery demand charge.

Alliance indicated that shippers were reluctant to contract on the Pipeline if revenue risk was borne by the shipper community, and asserted that shippers' desire for toll certainty precluded the traditional cost-of-service model under which tolls could vary significantly from year to year. Alliance submitted that a key component of the NSO was that the fixed toll for each service would not vary over the term of each shipper's initial transportation agreement. As a result, firm shippers would not be exposed to the impact of revenue and cost fluctuations during the initial term of their contracts. Alliance, not its firm shippers, would be at risk for any uncontracted capacity or cost overruns. If Alliance were unable to contract the firm level of billing determinants reflected in the fixed toll determination, Alliance suggested that interruptible service revenue would be available to the Pipeline to mitigate any negative financial consequences.

Another key component of the NSO was the proposed flexibility for Alliance to seek approval of revised tolls for new or renewing shippers after 1 December 2015. Alliance asserted that it requires the ability to recalculate the longer-term fixed tolls as market circumstances may require, and present those tolls to the Board for approval. Alliance suggested that this should not be construed as a cross-subsidization between generations of shippers, but rather the prudent course of action that a for-profit business would take based upon an improvement in the marketplace. In Alliance's view, future shippers would not pay the higher tolls unless the tolls were competitive in the marketplace, since Alliance's shippers have competitive alternatives.

It was Alliance's view that comparing receipt tolls on a competitive basis between Alliance, NGTL, and Westcoast is not an apples-to-apples comparison because of differences in the delivery destinations and the markets served. Alliance suggested that rational competitive analysis requires variables and assumptions that go far beyond a comparison of the absolute toll levels representing one cost component in the transportation value chain.

Firm Receipt Service (FRS)

Alliance applied for fixed term-differentiated volumetric receipt tolls in Zone 1 and Zone 2. According to Alliance, the fixed volumetric tolls would allow shippers to optimize their transportation costs on an energy basis by tendering liquids-rich gas.

For Zone 1, the fixed level of firm billing determinants was set equal to an annual average of 1,395 MMcf/d (39.52 $10^6m^3/d$), consisting of 1,325 MMcf/d (37.53 $10^6m^3/d$) on an annual basis, and 170 MMcf/d (4.82 $10^6m^3/d$) on a five-month winter basis. Alliance suggested that without the incremental seasonal billing determinants, the fixed tolls would have been more than five per cent higher, making them less attractive in the marketplace. For Zone 2, the fixed level of firm

billing determinants was set equal to an annual average of 640 MMcf/d (18.13 $10^6 m^3/d$). Alliance assumed that, for the purpose of developing the fixed tolls, flows through Zone 2 would be contracted at the maximum year-round volume the system could transport through that zone, rather than the capacity available for contracting through the PA process. Alliance stated that this resulted in lower tolls.

The fixed toll for FRS Zone 2 would be equal to the sum of the Zone 1 receipt demand charge and the Zone 2 receipt demand charge. For example, the FRS Zone 2 fixed toll of $0.58/Mcf for contract terms of five or more years was calculated by adding the Zone 1 receipt demand charge of $0.42/Mcf to the Zone 2 receipt demand charge of $0.16/Mcf.

For the purpose of developing term-differentiated tolls, the fixed tolls calculated using the billing determinants from above represent the toll applicable for FRS with an initial term of five years or greater. For FRS with initial terms of at least three years, but less than five years, the term-differentiated toll would represent a five per cent premium to the five-year toll. Alliance asserted that it chose levels of term-differentiated tolls that would provide a reasonable incentive for shippers to contract for a longer term for FRS while not economically eliminating the attractiveness of shorter term contracting.

The staged contract toll would be the volume-weighted average toll for all tranches over the term of the shipper's firm TSA. For calculating the blended toll for staged FRS contracts, the tolls for staged tranches with terms of five years and three years would be the five-year and three-year FRS tolls, respectively. For staged tranches with terms of at least one year, but less than three years, the one-year staged toll component would represent a 10 per cent premium to the three-year FRS toll.

Table 5-1 Firm Receipt Service Tolls

Service	Receipt Point	Delivery Point	Term & Toll ($/Mcf)		
FRS Zone 1	Downstream of Blueberry Hill	Alliance Trading Pool	5+ years	3&4 years	1&2 years (Staged)
			$0.42	$0.44	$0.49
FRS Zone 2	Upstream of or at Blueberry Hill	Alliance Trading Pool	5+ years	3&4 years	1&2 years (Staged)
			$0.58	$0.61	$0.67

Alliance contemplated alternative options for defining receipt zones on a preliminary basis, but determined that the postage stamp design with two zones was most appropriate. In Alliance's submission, the Blueberry Hill Compressor Station represents a natural demarcation point to divide the gathering portion of the Pipeline into two receipt zones. Alliance was of the view that while B.C.-MNGD may have allocated the NRR differently across zones, this was not a basis for rejecting the cost allocation methodology employed by Alliance. Alliance argued that if a single zone with a single rate were used, Alberta shippers would subsidize B.C. shippers.

According to Alliance, the system facilities, capabilities and associated costs are significantly different upstream and downstream of that station. Directly upstream of the Blueberry Hill Compressor Station are smaller diameter pipelines, and in particular, the 24-inch Fort St. John Lateral and the 20-inch Taylor-Aitken Creek lateral. Downstream of the Blueberry Hill Compressor Station is the Alliance 42-inch mainline which continues to the Windfall Compressor Station, where it interconnects with the higher pressure 36-inch mainline.

Alliance asserted that the toll differential between Zones 1 and 2 reflects the combination of the difference in the NRR associated with the receipt and transport of gas from the upstream lateral segments versus the mainline segment of the Pipeline, and the difference in billing determinants for the two segments. It was Alliance's submission that the toll differential ensures that users of the Pipeline bear the financial responsibility in proportion to the costs of transporting their product. According to Alliance, receipt points upstream of the Blueberry Hill Compressor Station are located on relatively long laterals in comparison to most of the receipt points in Alberta. This physical consideration was addressed in the toll principles that formed part of the original package of tolling parameters, including the Taylor-Aitken Creek $0.04/Mcf surcharge. Alliance submitted that the tolls derived for the two zones under the NSO better represent the cost causation and user pay principles, and the costs to finance and operate that portion of the receipt system.

Firm Delivery Service (FDS/FDS-IBR)

Tolls for FDS would be volumetric and would include a fixed demand charge or an IBR option. In Alliance's view, a postage stamp toll was the logical choice in the Delivery Zone because all delivery shippers have the same path from the ATP to the Canada-U.S. border.

The FDS fixed demand charge was calculated using the fixed revenue requirement for the Delivery Zone and billing determinants of 1,395 MMcf/d (39.52 $10^6 m^3/d$), consistent with the billing determinants used for receipt Zone 1. Alliance indicated that FDS tolls would not be term-differentiated. Alliance explained that it initially considered offering term-differentiated tolls for FDS; however, through customer consultations it became apparent that, unlike firm receipt shippers, potential FDS shippers were more interested in shorter-term contracts. Alliance asserted that the economic drivers are much different for a producer using a receipt service than a marketer or end user contracting for FDS.

FDS-IBR, on the other hand, would be subject to transmission tolls that vary with the natural gas price differential between the AECO[4] and Chicago markets. FDS-IBR would allow shippers to pay a base toll level priced lower than the corresponding FDS option, but would include a risk-sharing mechanism based on the increase of the AECO-Chicago gas price differential above the base toll. Alliance submitted that while no PAs had been executed for FDS-IBR service, the conceptual basis underlying the service was well received by industry participants. Alliance suggested that making the service available causes no prejudice and may provide an important alternative tool for future contracting of FDS.

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[4] AECO refers to the natural gas hub in Alberta establishing a commodity cost for natural gas.

Table 5-2 Firm Delivery Service Tolls

Service	Receipt Point	Delivery Point	Term & Toll ($/Mcf)		
FDS	Alliance Trading Pool	Canada-U.S. border	5+ years	3&4 years	1&2 years
			$0.23	$0.23	$0.23
FDS-IBR	Alliance Trading Pool	Canada-U.S. border	Minimum term of 5 years. Floor toll of $0.21 plus 50% sharing of the Canadian portion of the AECO-Chicago basis value in excess of the combined FDS-IBR and Alliance U.S. IBR floor toll.		

Firm Full Path Service (FFPS)

Under the NSO, tolls for FFPS would equal the respective FRS tolls plus the FDS toll. In this respect, it was Alliance's submission that FFPS allows shippers a volumetric pricing option that is similar to the current tolling system. Similarly, for FFPS staged contracts, the staged toll component would be calculated by aggregating the applicable FRS staged toll component and the FDS toll.

Table 5-3 Firm Full Path Service Tolls

Service	Receipt Point	Delivery Point	Term & Toll ($/Mcf)		
FFPS Zone 1	Downstream of Blueberry Hill	Canada-U.S. border	5+ years	3-4 years	1&2 years (Staged)
			$0.65	$0.67	$0.72
FFPS Zone 2	Upstream of or at Blueberry Hill	Canada-U.S. border	5+ years	3-4 years	1&2 years (Staged)
			$0.81	$0.84	$0.90

In Alliance's view, transportation under the NSO provides better economics of transportation on the Pipeline than the existing tariff offering, even when the current AOS provisions are accounted for. Alliance argued that cost-based tolls were not viewed as being competitive in the marketplace and would not have been acceptable to potential shippers. Alliance provided the following comparison of its current contract tolls, the associated effective tolls accounting for 18 per cent AOS, and the proposed five-year FFPS tolls.

Table 5-4 Toll Comparison between Existing and Proposed Services

Receipt Zone	2015 Contract Toll	2015 Effective Rate (18% AOS[5])	Fixed Five-Year FFPS Toll
FFPS Zone 1	1.005	0.85	0.65
FFPS Zone 2	1.04	0.88	0.81

Priority Interruptible Transportation Service (PITS)

Alliance indicated that PITS would be available for all FRS and FFPS shippers with initial terms of three years or greater, and would include two tiers of fixed interruptible tolls. Alliance submitted that PITS was proposed during shipper consultations, and that Alliance collaborated with prospective shippers to develop the PITS tiers and corresponding rates.

Under the NSO, each shipper would receive PITS for a volume of gas up to the equivalent of 25 per cent of the shipper's contracted capacity. The transportation toll for PITS would be equal to 110 per cent of a shipper's FRS or FFPS toll for volumes up to 10 per cent of the shipper's contracted capacity, and 125 per cent of the toll for volumes in excess of 10 per cent and up to 25 per cent of the shipper's contracted capacity.

Views of B.C.-MNGD

B.C.-MNGD argued that the NSO would result in an unfair competitive advantage for Alberta producers and an unjustified loss of competitive access to the Chicago market for B.C. producers. It also argued that higher tolls in Zone 2 would reduce royalties payable to the Province of B.C., which B.C.-MNGD asserted would not be in the public interest. B.C.-MNGD requested that the Board dismiss the Application on the grounds that it constitutes unjust discrimination under section 67 of the Act, and on the grounds that it disregards the requirements set out in section 62 of the Act. In the alternative, B.C.-MNGD requested that the Board direct Alliance to recalculate its tolls based on a single receipt zone design.

With respect to section 67 of the Act, B.C.-MNGD asserted that the two-zone toll design was unjust and unjustified. B.C.-MNGD explained that the Zone 1 receipt tolls would account for the revenue requirement costs associated with Zone 1 laterals, while the tolls proposed for Zone 2 would include the revenue requirement costs associated with Zone 2 laterals and Zone 1 laterals. B.C.-MNGD argued that this would result in unjust discrimination against B.C. shippers.

With respect to section 62 of the Act, B.C.-MNGD submitted that the services offered to Zone 1 shippers and those offered to Zone 2 shippers would have the same features and would remain essentially substitutable. As a result, section 62 of the Act demands that the tolls applied to all traffic on the Alliance system be charged to all shippers regardless of receipt point. B.C.-MNGD argued that the NSO fails to do so.

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[5] Alliance indicated that its average annual AOS for 2013 was 18 per cent and for 2012 was 17.2 per cent of contracted capacity.

B.C.-MNGD also argued that the toll methodology proposed under the NSO constitutes a marked departure from that currently applied on the Pipeline. In this regard, B.C.-MNGD asserted that Alliance had proposed a tolling methodology that significantly deviates from what the Board has deemed just and reasonable in the past. Therefore, Alliance bears the onus to demonstrate that its proposal would result in tolls that are at least as just and reasonable as those currently in place. In B.C.-MNGD's view, Alliance had not adequately demonstrated this.

Views of BP Canada

BP Canada was concerned that Alliance's proposal relied on the results of the PA process as a demonstration of market support, rather than relying on a full cost-of-service review to determine if the proposal was just, reasonable, and in the public interest. BP Canada argued that without cost-based information, the Board had no solid basis to conclude that Alliance's tolls were just and reasonable. BP Canada also argued that the NSO lacked commercial support when compared to other circumstances where pipeline applicants have requested a deviation from cost-of-service tolling. In BP Canada's view, appropriately calculated cost-of-service tolls would probably be lower than the proposed tolls under the NSO. For example, BP Canada stated that Alliance could likely achieve a lower effective toll by restating its costs under the current tolling principles with a reduced rate of return on equity (ROE) and depreciation rate.

BP Canada submitted that, ideally, the NSO proposal would be rejected by the Board because it would not result in just and reasonable tolls. If the Application were not rejected, BP Canada asserted that it should be made clear to Alliance that tolls should be determined on a cost-of-service basis. More specifically, BP Canada suggested that the Board direct Alliance to, among other things, recalculate its tolls based on actual cost data and using billing determinants that reflect the full capacity of the Pipeline (approximately 1.6 Bcf/d or 45.30 $10^6 m^3/d$), and recalculate its tolls for receipt and delivery service based on a reasonable allocation of costs attributable to each service.

In addition, BP Canada stated that the proposed firm tolls were consistently higher than tolls for other alternative routes for WCSB gas to reach the Chicago marketing and trading area. BP Canada indicated that the proposed tolls for transport from Zone 1 to Chicago exceed the cost of the NGTL/Foothills/Northern Border[6] path by 18 per cent, whereas the Zone 2 toll to Chicago exceeds the same path by 33 per cent. Further, the proposed Zone 2 toll for transport to Chicago exceeds the Westcoast pipeline path by approximately 17 per cent.

Comments of JL Energy Transportation Inc. (JL Energy)

JL Energy submitted that the Pipeline was built upon, and continues to employ, technology JL Energy developed. JL Energy indicated that it has not yet agreed with Alliance on fees payable for future use of the technology, as well as damages payable for past license and patent infringements. It was JL Energy's view that these costs to Alliance could potentially have a direct effect on the tolls charged to shippers and, therefore, this issue must be resolved before Alliance could accurately establish new tolls and tariffs that were appropriate, transparent and sustainable.

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[6] NGTL/Foothills Pipe Lines Ltd./Northern Border Pipeline Company

5.2.1 Views of the Board

Alliance's proposed toll methodology is not based on cost of service. While cost of service has been widely used and accepted in toll design, there is no requirement that tolls be derived in this manner in order to be found just and reasonable. The methodology that the Board employs in setting just and reasonable tolls is not prescribed by law, and the Board has broad discretion to determine what is just and reasonable. The Board is of the view that different circumstances or market conditions may warrant unique or innovative tolling methodologies.

The Board finds that the proposed toll methodology will produce firm tolls that are just and reasonable, and not unjustly discriminatory. Accordingly, the Board approves the firm tolls as filed. In reaching this finding, the Board considered the appropriateness of Alliance's PA process as well as market acceptance of the offering, as discussed in Chapter 3. While not determinative on its own, the Board also gave weight to the fact that the large majority of shippers signing PAs took no issue with the toll methodology.

As set out earlier in this Decision, the Board expected that Alliance may have the ability to exercise market power, at least in the short run. However, the Board is of the view that this market power was not abused in setting the firm tolls, particularly given that: (i) the PA process was appropriate; and (ii) the proposed FFPS tolls are materially lower than those currently in place for comparable service under the existing cost-of-service framework. The Board notes that, unlike interruptible and seasonal service, Alliance will not have discretion over firm tolls. Alliance will be required to apply to the Board for any subsequent changes to firm tolls, which, in the Board's view, helps mitigate concerns related to potential abuse of market power on a go-forward basis.

In regard to JL Energy's comments, the Board notes that Alliance's tolls have not been derived or approved on a cost basis. Therefore, it is the Board's view that any commercial agreement that Alliance and JL Energy reach regarding JL Energy's technologies should not impact the toll levels set out in the Application or the determination on the justness and reasonableness of those tolls.

With respect to the proposed delivery services, the Board notes that FDS-IBR gives the Pipeline a financial interest in the commodity market. In theory, this arrangement could provide a pipeline with perverse incentives. If a pipeline was a marginal supplier of gas into a market, withholding capacity could increase the basis differential and the returns to the pipeline. Given the lack of FDS-IBR contracts and the level of capacity contracted for other firm services, the Board believes that, at this time, the risk is more theoretical than practical. In Chapter 6, the Board requires Alliance to file information on its obligation to offer available capacity for seasonal or interruptible service, and the manner in which Alliance determines available capacity. The Board finds that this requirement should mitigate the potential risks associated with FDS-IBR service.

The Board is approving the firm tolls on the basis that market acceptance was demonstrated in the context of an appropriate PA process in which the Pipeline did not abuse its market power and where few concerns were expressed with respect to the NSO's toll methodology. The Board did not rely on the cost information provided in the NRR, including the allocation of lateral and mainline costs between receipt zones, in its examination of the firm tolls. For this reason, the Board did not consider B.C.-MNGD's arguments regarding the payment of Zone 1 laterals by Zone 2 shippers to be relevant to the determination of whether tolls are just and reasonable. In the Board's view, shippers in Zones 1 and 2 made commercial decisions with adequate knowledge of the firm toll levels when they signed PAs.

The Board also notes that B.C.-MNGD's concerns regarding zonal tolling were only raised in argument. Consequently, other participants in the proceeding were unable to test B.C.-MNGD's assertions and prepare pertinent responses. Further, the lack of evidentiary support demonstrating the manner in which B.C.-MNGD's argument considered all components of zonal tolling in arriving at its conclusions lessens the weight that can be assigned to it.

B.C.-MNGD contended that the services offered to Zone 1 shippers are essentially substitutable with those offered to Zone 2 shippers, and therefore the same toll should be applied to shippers, regardless of receipt point. The Board considers the services offered to shippers in each zone to be similar in nature insofar as they involve both gathering functions and transportation on the mainline. The Board is of the view that service from the zones is distinguishable based on the fact that gas from Zone 2 must be transported a greater distance than gas originating in Zone 1. On this basis, the Board finds it appropriate that Zone 2 shippers pay a higher toll than shippers whose shipments originate in Zone 1.

Finally, B.C.-MNGD suggested that the toll methodology proposed under the NSO constitutes a marked departure from the way in which the Pipeline has been operated historically, and that Alliance bears the onus of demonstrating that its proposal would result in tolls that are at least as just and reasonable as those currently in place. In the Board's view, the justness and reasonableness of tolls and tariffs is not easily compared across differing sets of circumstances or toll methodologies. The Board also considers that, for any given set of circumstances, there may be several approaches to tolling that yield just and reasonable results. Each approach should be considered on its own merits and in respect of the many diverse factors that comprise its circumstances. The Board considered the firm tolls proposed under the NSO based on Alliance's specific circumstances and the characteristics of the NSO as a whole, and has found those firm tolls to be just and reasonable.

Chapter 6

Seasonal and Interruptible Services

Views of Alliance

Proposed Seasonal and Interruptible Services

Alliance proposed to offer seasonal service for FFPS, FRS and FDS. Service would be available for the five months from November through March, for seven months from April through October, or for portions of those time periods as short as one day. Alliance also proposed to offer interruptible receipt service, delivery service, and full path service. Alliance proposed that the tolls for these services be biddable, with bid floors established by Alliance and set by receipt point or region. Revenue from seasonal and interruptible services would not be credited to firm service shippers' tolls.

Alliance would allocate capacity for these services through a bidding process. As such, price ceilings for these services would be established by the competitive market. If bids exceed the available capacity, it would be awarded:

- for seasonal service, to the bids that provide the highest net present value of demand charge revenues to Alliance; and
- for interruptible service, based on the bid tolls with the highest bid tolls being allocated capacity first.

If shippers submit equal bids for a service (net present value for seasonal service or bid toll for interruptible services), Alliance would allocate available capacity among those equal bids on a pro rata basis, based on the capacity requested or nominated under those bids.

Bid Mechanism

Alliance stated that it is pricing interruptible and seasonal services on a biddable basis to provide the maximum flexibility to market available capacity, and so that the shippers who value those services the most have the opportunity to bid for and receive that value. According to Alliance, this is an economically efficient way to dispatch residual capacity to the market in a non-discriminatory and transparent manner.

Alliance submitted that bid mechanisms for discretionary services have been a long-accepted practice for natural gas pipelines regulated by the NEB. For example, in the early 1990s TransCanada introduced flexible pricing for interruptible services based on market demands that would promote more efficient use of its system, send the correct market signals to interruptible shippers, and allocate interruptible peak capacity to those who value it most. In its RH-4-91 Reasons for Decision, the Board endorsed the stated objective of the proposal to implement market responsive interruptible tolls in order to promote a more efficient use of the TCPL system. The Board stated that the proposed methodology would help ensure that available interruptible capacity would be used by those shippers who place the highest value on this

capacity, and would ensure that the price paid for interruptible service would reflect the value of that service to each shipper. The Board noted in RH-1-99 that it considers a bidding mechanism to be an inherently fair and efficient way of allocating available capacity for short-term services, and that the resulting prices will be market responsive.

Discretion to Set Bid Floors

Alliance submitted that it needs tolling flexibility in order to respond to competitive market conditions. If sufficient firm long-term contracts do not materialize, Alliance may need to discount shorter term discretionary services to maximize revenues. Flexibility may also be required to preserve the value of firm capacity. Alliance suggested that, with the shorter term, firm and staged contracts signed in the PA process, there may be times when the Pipeline is under-contracted on a firm basis. Accordingly, as part of its risk/reward balance, Alliance sought discretion for interruptible and seasonal service pricing in order to be able to respond to changing market conditions.

Alliance stated that it requires tolling flexibility to respond to gas markets that can be volatile. However, Alliance submitted that it would have to use this discretion to be sensitive to contracting patterns and the needs of its customers. For example, if a bid floor is set too high, the capacity would not be contracted and there would be less revenue available for Alliance's account. Conversely, if a bid floor is set too low, there could be a greater loss of revenue than if Alliance had correctly predicted the optimal bid floor. In the case of setting bid floors too low, there is also the risk that long-term firm service would be devalued.

Alliance stated that, as a pipeline moving from a cost-of-service tolling model to an at-risk business model, it requires the ability to price its residual transportation capacity in a way that allows it to maximize revenues when the market volatility allows and to also economically dispatch the Pipeline at a lower toll when required. According to Alliance it was guided by the Board's RH-003-2011 Reasons for Decision, which granted TransCanada certain discretion to set bid floors for Short-Term Firm Transportation (STFT) and IT on the TransCanada Mainline. Just as the Board was of the view that it was important to provide TransCanada with the necessary tools to capture market opportunities if and when they arise, Alliance believed its case to be granted full discretion to set bid floors was even more compelling given its adoption of an at-risk, fixed toll business model, and its relative lack of market power.

Alliance was of the understanding that, at the time of the RH-003-2011 proceeding, low throughput utilization levels on the TransCanada Mainline, combined with a cost-of-service tolling methodology for captive customers, were contributing to an upward spiraling toll. This resulted in the reduction of long-haul firm service contracting and the increasing use of IT for firm market needs. TransCanada filed an application to implement a proposed restructuring of its services. In response to that application, the Board granted TransCanada full discretion for IT bid floors.

Alliance submitted that its risk/reward balance differs significantly from that of TransCanada. At lower system utilization load factors, Alliance's firm transportation shippers with fixed tolls would not face higher tolls during the initial term of their contracts, nor would they be allocated additional costs, as they would if they were captive customers in a cost-of-service environment.

Nor would Alliance's firm transportation shippers with fixed tolls face the potential allocation of additional costs related to negative deferral account balances, as structured in RH-003-2011. TransCanada's shippers bear the revenue and cost risks associated with TransCanada's tolling methodology and are therefore allocated the benefit of IT revenue. Alliance bears the revenue and cost risk of its fixed toll methodology, and therefore should receive the benefit of interruptible service revenue.

Alliance stated that it is highly incented, through its assumption of volume and revenue risk, to maximize revenue through the offering of any un-contracted spare capacity. Alliance's goal is to fully dispatch the Pipeline, which requires Alliance to compete on transportation rates to provide a landed cost that is competitive with the other large interstate pipelines into the Chicago area. In the event that a portion of the Pipeline's capacity remains un-contracted with firm service, Alliance may price its interruptible and seasonal services in a competitive manner so as to attract additional volumes to mitigate the risk of underutilization. According to Alliance, limiting its discretion to set bid floors would impair Alliance's ability to respond to the changing market and to mitigate the revenue and cost risks Alliance proposes to assume. Alliance asserted that it does not have captive customers and would be constrained by the market in exercising this discretion. Unlike other pipelines that price shorter-term services at very high rates to encourage long-term contracting, shippers on Alliance faced with a similar approach would simply contract with a competing pipeline if Alliance's services were not competitive.

Alliance commissioned NERA to provide an analysis of the competition among transportation options for natural gas from the WCSB serving the Chicago market. The NERA report described the competitive nature of the origin and destination markets in which the Pipeline operates. The NERA report concluded that Alliance operates in a highly-competitive destination market where it does not have the ability to exert market power and that in the origin markets in which Alliance operates. Alliance's share of these markets is low in comparison to that of the other pipelines. Alliance submitted that as its competitors expand their pipeline systems in close proximity to the Alliance system, Alliance's share of the origin market is shrinking.

Shippers can contract for long-term firm service capacity at any time, if available, in accordance with Alliance's new Tariff. Available long-term firm service capacity would be awarded to shippers on a first-come, first-served basis. The fixed toll for such service would be the NEB-approved toll, as stated in the applicable toll schedule. This toll would act as a recourse rate for shippers needing greater toll certainty than the biddable pricing proposed for seasonal firm services.

Alliance submitted that, in principle, secondary market transactions between shippers and counterparties could occur for Alliance contracts. Any shippers wanting to mitigate firm service charges could resell their capacity at levels acceptable to the market, thereby undercutting higher-priced bid floors set by the Pipeline for discretionary services. In principle, the further a pipeline prices discretionary service above market thresholds, the easier it should become for a firm service contract holder to resell capacity in the secondary market.

Alliance's long-term shippers have choices regarding what transportation service provider they choose at the end of their initial TSA. Alliance stated that it is incented, under its at-risk model, not to undermine the functioning of, nor unfairly compete with, the secondary market. If a

long-term firm shipper is unable to mitigate the costs of its unused firm capacity in the secondary market, that inability would increase its costs of doing business with Alliance, and decrease the likelihood of it renewing its firm, long-term contract with Alliance past its primary term.

Alliance does not believe that pricing discretion would have a significant impact on commodity prices at NIT or downstream markets. Because of high levels of long-term firm service, relatively small amounts of transportation would be subject to discretionary pricing. Alliance's present volumes gathered in Alberta are relatively small and according to its expert evidence, its market share in Chicago is only 17.2 per cent. Alliance submitted that it is a price-taker with respect to the Chicago market. On this basis, the setting of bid floors by Alliance for seasonal and interruptible services could not be expected to impact commodity prices at Chicago. In Alliance's view, it has insufficient connectivity to the NIT market hub to impact commodity prices at NIT.

Alliance indicated that it intends to consult with its shippers regarding the information to be provided during the interruptible bid process. Alliance's proposal regarding its reporting of bid floor management is currently under development and will be impacted by its operating experience once its biddable services are implemented.

In response to questions posed by the Board, Alliance provided some scenarios of the total revenues it could earn if all un-contracted capacity was sold as shorter-term service at 300 to 500 per cent of the corresponding firm service rate. While Alliance considered these scenarios to be unrealistic for a number of reasons, if the scenarios were to materialize, Alliance could earn well in excess of its NRR, especially in later years when firm contract levels are lower.

Alliance acknowledged that the Board may have concerns about granting Alliance full discretion to set bid floors for interruptible and seasonal services since this could result in Alliance achieving greater than a fair return. Alliance submitted that this could be addressed once the financial results of a number of years of experience with interruptible and seasonal revenues became available. Until Alliance gains experience in selling discretionary services, any estimates of the revenues that it might earn would be purely speculative. Alliance submitted that the Board could decide on the necessity, or lack thereof, for any limits on Alliance's ability to set bid floors for discretionary services once more data became available. In the interim, Alliance indicated that the Board could take comfort that Alliance operates in a competitive market which by its very nature constrains Alliance's ability to over-earn. Alliance submitted that the Board does not need a fair return study to approve the requested discretion in the circumstances confronting Alliance and that such a study is not applicable in respect of a non-cost-of-service model.

Approach to Setting Bid Floors

Alliance expects that the amount of capacity it has available and the capacity available on competing pipelines will be the criteria that most affect the differences in bid floors by receipt point or region. Other factors Alliance would use in setting bid floors include:

- Impact of bid floor on firm service subscriptions
- Experience gained from bids received
- Previous demand and interruptible pricing in each locality

- Competitor capacity pricing
- Market hub price signals, spot and forwards (NIT, Chicago and Dawn gas pricing)
- Current and near-term weather
- Storage levels
- Natural gas supply and demand
- Canada – U.S. Foreign exchange rates.

Alliance indicated that setting bid floors by receipt point for interruptible and seasonal firm service precludes unjustly discriminatory pricing because all shippers at a specific receipt point would have the same ability to bid for capacity at the same bid floor at that particular receipt point. It was Alliance's view that shippers at different receipt points are not similarly situated and therefore the pricing at each receipt point could reflect the economics of shipping at that particular receipt point. For example, tolls for FRS vary across receipt points on the NGTL system and Alliance would take such competitive toll information into account as one factor when setting bid floors by receipt point. According to Alliance, as firm receipt contracts, including associated PITS, constrain the capacity available at individual receipt points, Alliance would likely set bid floors higher at those locations, reflecting the scarcity of capacity.

Alliance stated that it had not considered restricting non-public information from employees responsible for setting bid floors. However, Alliance believes that this non-public information would have little value in the bid setting process. Alliance contended that it would be competing for discretionary volumes primarily at dually-connected receipt points for delivery into Midwestern markets where other large interstate pipelines compete. Accordingly, Alliance would primarily be using publicly available market information in setting bid floors so that a shipper could achieve a netback or landed cost that is more desirable than its next best alternative.

Views of BP Canada

BP Canada submitted that the Board should deny the Application on the grounds that it does not result in just and reasonable rates. In the alternative, the Board should deny Alliance full discretionary pricing.

While Alliance described the Board's 300 and 500 per cent scenarios as "implausible" on the grounds that shippers would likely take firm service rather than pay such large premiums, BP Canada considered these scenarios to be important possible outcomes that the Board should consider when assessing whether Alliance's total revenues reflect just and reasonable tolls. BP Canada cited TransCanada's experience with discretionary pricing, where the volume-weighted average toll for IT sales equated to 543 per cent of the Firm Transportation (FT) toll, as support for this proposition. In addition, BP Canada provided analysis showing that discretionary pricing could lead to an excessively high ROE and stated Alliance has not provided any evidence justifying this level of return.

Views of CAPP

CAPP expressed concerns that the unprecedented situation that led to the Board granting the TransCanada Mainline unprecedented and unfettered pricing discretion will become the norm rather than the exception. According to CAPP, the RH-003-2011 Decision adopted unprecedented measures in response to the TransCanada Mainline's unprecedented position of long-haul load loss due to eastern markets shifting to short-haul use of the TransCanada Mainline to obtain new U.S. shale gas supplies with a resulting upward toll spiral and prospect of a death spiral. The Board rejected TransCanada's proposal, which was based on cost recovery. The Board instead set tolls for a multi-year period below cost at a level the Board judged to be the maximum level that would keep the TransCanada Mainline competitive. Under this model, TransCanada Mainline cost recovery was dependent on increasing long-haul throughput to much higher levels over a period of years and TransCanada was at risk if it failed to do so. While TransCanada forecast it could increase its long-haul throughput, there was, at the time, much uncertainty in that regard. The Board made it clear that TransCanada bore the ultimate risk and if long-haul throughput failed to recover, TransCanada would need to return to the Board with a proposal for addressing stranded investment.

The Board allowed TransCanada unprecedented discretion to set bid floors for IT and STFT services at any level of its choosing (although STFT could not be below 100 per cent of the FT toll). CAPP submitted that the Board made clear this would give TransCanada a tool to discourage firm markets from using IT and STFT services that were reliably available because of substantial un-contracted long-haul capacity and instead incent those markets to use FT. FT was priced below cost and there was much long-haul capacity available for minimum one-year terms to provide a recourse. Pricing discretion would also allow TransCanada the ability to obtain increased IT and STFT revenue when service was in demand.

In the RH-001-2014 Decision, the Board substantially approved an application based on a settlement between TransCanada and local distribution companies (LDCs), with tolls for service from the WCSB remaining below cost for most of the initial six-year settlement period. The Board remained concerned that shippers could return to using IT and STFT to meet firm demand and allowed TransCanada to retain its unfettered pricing discretion. However, the Board indicated that consideration of the continued appropriateness of discretionary pricing may occur in a hearing contemplated for the mid-term mark of the six-year initial period of the settlement.

CAPP indicated that Alliance is in a very different position from the TransCanada Mainline. Alliance continues to connect robust WCSB supply directly to markets, and production has grown within 40 km of the Pipeline since 2001 compared with supply decline in the WCSB overall.

The "captive" LDCs and "captive" markets referenced by Alliance in various parts of its evidence and IR responses, which it says TransCanada enjoys but Alliance does not, must be considered in light of the mixed blessing this involves. While TransCanada can look forward to some well-utilized facilities in the east, it is also being called upon to build new capacity in the east which further unloads its long-haul services and it has unnecessary capacity that it proposes to redeploy to oil use.

CAPP submitted that the TransCanada Mainline is a complex system with multiple supply sources, many points at which gas can enter or leave its system, and long- and short-haul services into its markets, leaving its shippers with multiple options. In contrast, once gas is on the Alliance bullet line from the supply area to the Chicago market hub, it has one ultimate destination: the interconnection with Alliance U.S., with all natural gas processed through the Aux Sable facility.

Pricing Discretion for Alliance is neither Necessary nor Reasonable

CAPP submitted that Alliance provides little justification for its proposed pricing discretion for interruptible and seasonal firm service. Alliance pointed to the RH-003-2011 Decision and observes that it bears risk under the NSO. CAPP stated that Alliance's basic raison d'être remains intact and that it is not the first pipeline to face a repositioning of its services and tolls. Moreover, all pipelines bear risk which is why they receive risk-adjusted equity returns.

CAPP noted that Alliance recognizes its unique position, and competitive advantage, as a pipeline moving liquids-rich gas through a direct line to the Chicago market hub.

In CAPP's submission, the NSO is premised on the recovery of Alliance's costs. CAPP stated that Alliance is re-contracting successfully. Interruptible and seasonal firm service will allow use of that capacity that cannot be made available for contracting long-term. Bidding then will lead to Shippers bidding up the actual price of the service in times when capacity has value. CAPP stated that Alliance expects to close the revenue gap shown in its early January 2015 analysis. CAPP added that Alliance's provision of PITS and interruptible service at the firm service toll level would provide substantial revenues.

Noting that Alliance has provided additional value to its firm shippers with PITS priced at 110 per cent and 125 per cent of firm service in two tranches, CAPP stated that seasonal firm would reduce the PITS available to firm shippers while interruptible service could be an alternative if discounted below the toll for PITS. However, CAPP pointed out that Alliance said it does not wish to use its discretion to undermine the value of its firm customers.

CAPP noted that the minimum term for receipt or full path service is three years and that receipt service in Zone 1 and full path service have not been available since 12 December 2014 with more PAs signed since that time.

CAPP submitted that Alliance had not indicated any expectation of shippers using seasonal firm or interruptible service as a substitute for firm service, as was seen in RH-003-2011 and RH-001-2014.

In response to Alliance's statement that it would not often be able to set bid floors above 300 to 500 per cent of firm based on data of historic average netbacks, CAPP submitted that a similar assertion was made in RH-003-2011 and accepted by the Board, but in fact TransCanada was able to set bid floors at very high levels, as much as 40 and 50 times the firm service toll.

It was CAPP's view that the evidence submitted by Alliance on market power appeared to be designed to demonstrate that its approach to the new service re-contracting process and absence of a full cost-of-service filing should not trouble the Board. Dr. Makholm's Expert Report

(NERA report Part I) indicated that any market power would be constrained by Alliance's adoption of a "non-discriminatory cost-based regime".

CAPP suggested that whatever the merit of Alliance's market power evidence, with receipt service well-contracted, there is a captive market at the Alliance pooling point for onward delivery service of every kind. This is reinforced by the fact that all gas is destined for initial delivery into the Aux Sable gas plant.

CAPP pointed out that Dr. Makholm's Market Power Assessment (NERA report Part II) shows that all origin markets are concentrated with Alliance having market shares that are significant in the context of market power analysis. Under the Federal Energy Regulatory Commission approach, a pipeline must be shown to have no market power in both origin and destination markets. It was CAPP's view that Dr. Makholm's analysis was consistent with market power in the origin market.

CAPP submitted that Alliance had referred to factors that could help mitigate the exercise of market power including dually-connected plants. However, it was CAPP's view that Alliance serves a growth area and the ability of shippers to move gas onto another pipeline that is physically connected to a plant is constrained by the availability of capacity on that other pipeline. In the case of Westcoast T-North in northeast B.C. and NGTL in northeast B.C. and northwest Alberta, capacity is either fully or near-fully contracted such that any meaningful surplus capacity that would help to mitigate the exercise of market power by Alliance does not exist.

CAPP stated that Alliance has provided no meaningful justification for singling out interruptible service and seasonal firm services for different, discretionary, treatment from other services where price levels are fixed. Nor is there any real discussion of how firm service would provide meaningful recourse to use of interruptible service or seasonal firm in the context of the Alliance new services model with three year minimum terms, well-contracted services, and PITS. The appropriate approach, in CAPP's view, is to ground bid floors for seasonal service and interruptible service on cost as the traditional approach to setting tolls would do and as Alliance has done for PITS.

CAPP has no objection to bidding as this is common and also provides the pipeline additional upside opportunity. CAPP opposes Alliance's proposed discretion to set the bid floors for interruptible service and seasonal firm services at any level of its choosing. In CAPP's submission, there should be a cap on the bid floors Alliance can set.

CAPP suggested the maximum price for the second tranche of PITS of 125 per cent would be a reasonable maximum bid floor. In CAPP's view, this was above the firm service toll and was the maximum toll that would be paid by firm shippers for PITS. However, firm shippers would enjoy priority access by using PITS over the interruptible service shippers. Interruptible service shippers would be bidding from the 125 per cent level and could pay more than this level.

CAPP submitted that Alliance should be able to discount interruptible service. CAPP suggested a floor be set on seasonal firm service at the level of firm service toll so that seasonal firm service would be available for bidding with floors in a range of 100 per cent to 125 per cent of the firm toll.

6.1.1 Views of the Board

The Board approves seasonal service for FFPS, FRS and FDS. The Board also approves interruptible receipt service, interruptible delivery service and interruptible full path service. The Board agrees with Alliance that the revenue from these services should go to Alliance's account, subject to the reserve account described in Chapter 8.

The Board approves the use of a bid mechanism in the determination of tolls for these services. Consistent with previous decisions, the Board continues to find that a bid mechanism is an efficient method of allocating capacity to those who value it most. The Board agrees, as stated in RH-1-99, that a bidding mechanism is an inherently fair and efficient way of allocating available capacity for short-term services and the resulting prices will be market responsive.

Alliance requested the ability to set bid floors by receipt point or region. The Board accepts Alliance's submission that this would result in greater flexibility for Alliance to respond to market conditions, and therefore approves Alliance's request. However, the Board will monitor the manner in which bid floors are set, as described below.

Alliance requested the discretion to set unlimited bid floor levels for seasonal and interruptible services. The Board notes that this request comes shortly after similar discretion was approved for TransCanada in the RH-003-2011 decision. A significant amount of evidence on the record of this proceeding compares the current situation of Alliance to TransCanada's situation following the RH-003-2011 proceeding.

The Board finds that the risk Alliance is assuming, as discussed in Chapter 8, does not warrant granting Alliance the discretion to increase bid floors to any level. In granting this discretion to TransCanada in the RH-003-2011 Decision, and maintaining it in RH-001-2014, the Board relied on the unprecedented position the TransCanada Mainline was in, including significant market changes, decreasing throughputs, increasing tolls and a general erosion of its competitiveness. The Board notes that Alliance did not submit evidence of significantly decreased throughput or substantial toll increases. To the contrary, the Alliance Pipeline has been highly utilized and tolls have been stable. As discussed in Chapter 3, the Pipeline is nearly fully contracted for firm service under the NSO. Therefore, the Board is of the view that it is reasonable to believe that the Pipeline will continue to be highly utilized in the near future. Moreover, fixed firm tolls proposed by Alliance will ensure toll levels remain stable. The Board notes that there was no evidence submitted by Alliance that firm contracts would not be renewed, that by-pass infrastructure would be built, or that Alliance's competitiveness was eroding.

In the RH-003-2011 proceeding, the Board determined that TransCanada's applied-for cost-of-service rates were not competitive. Therefore, the Board set

firm service tolls at lower levels than TransCanada's applied-for rates. In the current proceeding, the Board has approved the firm tolls proposed by Alliance. These tolls, which are lower than the existing cost-of-service tolls, have been accepted by the market as evidenced by executed PAs for firm service.

In the RH-003-2011 Decision, the Board stated that on the underutilized TransCanada Mainline, shippers had virtually guaranteed access to discretionary services and used them to meet firm needs, depriving TransCanada of the ability to recover costs for capacity used and justifying higher rates for discretionary services. The Board notes that Alliance has not submitted evidence of Pipeline underutilization allowing shippers guaranteed access to discretionary services to meet firm needs, or an indication that annual costs would not be covered due to pipeline capacity going unused for portions of the year. Given existing firm contract levels and the opportunity for certain firm shippers to use an additional 25 per cent of their capacity for PITS, the Board is of the view that there may be little capacity left to offer up for seasonal or interruptible services.

The Board finds that the circumstances faced by TransCanada at the time of the RH-003-2011 Decision were drastically different than Alliance's current circumstances. Alliance is a highly-utilized pipeline which is almost fully contracted for firm service. Accordingly, there is no reason to believe the bid mechanism and the market will fail to reflect the value of transportation. Therefore, the Board is of the view that intervention from Alliance is not necessary and the upper limit of tolls will be established by the market.

In RH-003-2011 the Board stated that:

> it is just and reasonable for shippers who need guaranteed access to the Mainline throughout the year to pay for the full annual costs related to the capacity they need. Shippers that truly require Mainline service can cap their exposure to discretionary tolls by opting to contract for FT service. In this way, FT tolls act as a recourse rate to protect shippers from high tolls for discretionary services.

In that Decision, the Board noted that should any interested person be denied access to the recourse rates, the interested person could file a complaint with the Board.

Alliance submitted that for shippers needing greater toll certainty than the biddable pricing proposed for seasonal firm service, a NEB-approved fixed toll for firm long-term service would act as a recourse rate. However, the Board notes that while additional capacity may be available depending on the Pipeline's operating conditions, this capacity is not reliable and cannot be offered for firm service. As a result, the Board finds that, for this capacity, there is no effective recourse rate to protect shippers from the higher tolls of discretionary services.

The Board agrees with CAPP's suggestion that Alliance should not have the discretion to set the bid floor for seasonal and interruptible services any higher than 125 per cent of the corresponding five-year fixed toll. Shippers may submit bids at, or any level above, the bid floor, which will allow the market to drive the tolls upward when capacity is scarce.

Firm shippers enjoy access to PITS over interruptible shippers and will pay a maximum of 125 per cent of the corresponding five-year firm toll for the service. Through the bidding mechanism, the tolls paid by interruptible shippers could be bid up to much higher levels.

Turning to the issue of discounting the tolls for interruptible and seasonal service, the Board agrees with Alliance that the ability to discount tolls would enable the Pipeline to attract additional throughput when and where excess capacity may be available. The Board shares Alliance's concern that setting tolls too low could undermine the perceived value of firm service. However, in this case, there will be many days when interruptible service is not available or is limited. Therefore Alliance may discount interruptible service to any level. Alliance is not obliged to discount service and therefore will be fully in control of the impacts of discounting interruptible and seasonal service.

The Board does not find that it would be just or reasonable to discount tolls for firm seasonal service below the tolls for multi-year firm service. Firm shippers have made substantial commitments to receive service and pay tolls on the Pipeline. Seasonal shippers have not committed to paying year-round tolls for one or more years, but receive firm service just as firm shippers do. Therefore, Alliance may not discount seasonal service below the corresponding five-year tolls for firm service.

Regarding the information that would be provided during the interruptible bid process, Alliance submitted that it intends to consult with its shippers. Its proposal regarding reporting of bid floor management is currently under development. Alliance believes that non-public information would have little value in the bid setting process and submitted that Alliance would primarily use publicly available market information in setting bid floors.

The Board directs Alliance to consult with shippers and report to the Board on:

- the mechanisms of the bid process, including when and how Alliance will announce bid floors, timelines for submitting bids, and any relationship between the timing of nominations for PITS and bids for interruptible or seasonal service;
- information to be posted for shippers to ensure transparency in the way Alliance sets bid floors, including the amount of available capacity on the system;
- the information to be contained in quarterly reports to the Board (see Chapter 9) regarding Alliance's management of bid floors, such as applicable bid floors for each path and information related to successful bids;

- measures Alliance will take to prevent the use of non-public information in setting bid floors;
- Alliance's obligation to offer available capacity for seasonal service or interruptible service and the manner in which Alliance would determine the available capacity; and
- any other relevant factors related to Alliance's discretion to set bid floors identified by Alliance or shippers.

Alliance must file this report with the Board and serve it on shippers and interested parties no later than 7 October 2015. Interested parties will then have 15 days to file comments with Board.

In conclusion, the Board approves all interruptible and seasonal services proposed by Alliance. The services will be biddable with bid floors set by Alliance by receipt point or region. The bid floor for seasonal services may be set between 100 per cent and 125 per cent of the corresponding fixed five-year toll. The bid floor for interruptible services may be set at any level up to 125 per cent of the corresponding fixed five-year toll.

Chapter 7

Recoverable Cost Variance and Abandonment Surcharge

7.1 Recoverable Cost Variance Surcharge

Views of Alliance

When developing the fixed tolls, Alliance included certain recoverable costs in its base cost forecast. Alliance viewed these costs as not being fully controllable, and therefore beyond its ability to accurately forecast. Should the actual recoverable costs exceed the levels embedded in the fixed tolls, Alliance proposed that a RCV demand surcharge and commodity surcharge be applied to each of the new transportation services. However, Alliance emphasized that the RCV surcharge would not be used for revenue shortfalls caused by actual contracted volumes being lower than the forecasted billing determinants.

Alliance identified the five recoverable cost categories as:

i) pipeline integrity, including any pipe replacements or re-routes required to comply with applicable governmental codes and regulations;

ii) property and business tax;

iii) NEB cost recovery;

iv) compressor fuel tax; and

v) environmental levies, such as carbon taxes and greenhouse gas compliance costs.

In addition, Alliance proposed that the RCV surcharge include any new costs imposed by governmental or regulatory authorities.

Alliance submitted that the RCV surcharge was designed to collect the five recoverable cost categories from all users of the Pipeline, including those shippers contracting for seasonal and interruptible services. Alliance was of the view that when assessing the market competitive value of bid floors posted, potential seasonal and interruptible shippers would factor the applicable RCV surcharges into their bid analysis.

According to Alliance, the RCV surcharge approach would alter the risk/reward relationship in its proposed "at-risk" model in a small manner relative to Alliance's assumption of all of the cost risk associated with the Pipeline. Alliance submitted that the fundamental shifting of cost risk from shippers to Alliance was a significant departure in the typical risk/reward balance and that this warranted its proposed treatment of these five recoverable costs categories.

Alliance stated that it is highly incented to manage its entire cost structure, including those costs not within its direct control, in order to remain competitive and retain customers. In Alliance's

view, this incentive would result in it striving toward a zero RCV surcharge each year and contribute to greater toll certainty for shippers.

Alliance affirmed that during its consultations with shippers, none voiced concerns regarding possible variations of the RCV surcharge, and discussions on this matter were limited to clarification inquiries.

Views of Participants

Although no participants expressed concerns regarding the use of the RCV surcharge, BP Canada raised concerns regarding the RCV deferral accounts. Further discussion can be found in Section 7.2.

7.2 Recoverable Cost Surcharge Deferral Accounts

Views of Alliance

Alliance proposed that the RCV surcharge be determined for each new service in the same manner as the five cost categories were allocated in the calculation of the associated fixed firm tolls. This meant that, on a monthly basis, any ending balance of the cost variance between the base cost forecast and the amount of actual costs incurred for each cost category would be allocated to the three toll design zones. The year-end annual cost variances for the five cost categories in each of the three toll design zones would be summed. Where there were positive amounts representing costs incurred by Alliance in excess of the RCV base forecast, including carrying charges, these amounts would be recovered through three RCV cost deferral accounts, one account for each of the three toll design zones.

Alliance also proposed that the RCV surcharge would be adjusted to reflect any surcharge revenue variance in the prior year. Again, on a monthly basis, the ending balance of the variances between the forecasted revenue to be collected through the RCV surcharge and the actual revenue collected would be recorded. The year-end annual revenue variance, including carrying charges, would be allocated to three RCV revenue deferral accounts.

For each annual toll year, Alliance planned to sum the amounts recorded in each of the three RCV cost deferral accounts from the prior year and the amounts recorded in each of the three corresponding RCV revenue deferral accounts from the prior year. If this resulted in an aggregate under-collection of the RCV costs, that sum would be allocated to each of the new services in the form of the RCV demand surcharge or commodity surcharge. If an aggregate over-collection of RCV costs occurred, Alliance proposed to retain those monies as part of the overall risk/reward balance that Alliance claimed it was assuming under the NSO.

Alliance suggested that a fixed rate of 8.75 per cent be used as the carrying charge for both types of RCV deferral accounts. Alliance submitted that this rate was equivalent to the total levelized rate of return on rate base resulting from the notional rate base and the applicable NRR components.

Views of BP Canada

BP Canada was of the view that it was unreasonable to allow Alliance to retain over-recoveries while recovering under-recoveries from shippers, considering that Alliance had generated the escalation assumption with regard to its forecasted costs.

7.2.1 Views of the Board

Pipeline safety is and has always been of paramount concern to the Board. It is the Board's position that all available action should be taken to protect Canadians and the environment. To meet the Board's requirement that all regulated pipelines anticipate, prevent, manage and mitigate any potentially dangerous conditions, the Board expects Alliance to continue to have a robust integrity plan and ensure the Pipeline is operated in a safe manner.

The RCV mechanism is a function of specific recoverable cost categories that were identified by Alliance as not being fully controllable and beyond its ability to accurately forecast. One such cost is integrity expenditures. The Board recognizes the need for this type of mechanism, considering the variable nature of the costs identified. Alliance's proposed flow-through treatment of the expenses by using a RCV surcharge is, in the Board's view, consistent with how similar costs are treated on other NEB-regulated pipelines.

The Board approves the RCV cost categories and surcharge methodology as proposed by Alliance. However, the Board is of the view that Alliance's proposed RCV cost categories, in particular the integrity costs category, are too broad for shippers or the Board to ascertain which costs are eligible for inclusion. Therefore, the Board directs Alliance to file with the Board and serve on its shippers and interested parties, no later than 7 October 2015, a comprehensive description of costs to be included in each RCV cost category. Interested parties will then have 15 days to file comments with the Board.

The Board reminds Alliance that, under paragraph 60(1)(a) of the NEB Act, a company shall not charge any tolls except tolls that are specified in a tariff that has been filed with the Board and is in effect. The Board directs Alliance to file any RCV surcharges and to include details of the costs in each category contained in the calculation of the RCV surcharge to enhance transparency.

Alliance has proposed to create two RCV deferral accounts to record variances between the actual and forecasted RCV costs. The Board is of the view that the use of deferral accounts, and the associated carrying charges, is appropriate, and finds the proposed RCV cost and revenue deferral accounts suitable mechanisms for managing and recording the variances between actual and forecasted RCV cost expenses. In the Board's view, forecasting spending related to the RCV cost categories could be challenging, especially with respect to integrity. This could lead to significant variances between Alliance's estimated and actual costs. The Board considers that the use of deferral accounts to manage and monitor RCV

spending, and in particular integrity-related spending, will provide adequate incentives to conduct appropriate integrity work in a timely manner and will mitigate concerns about over-estimation of integrity spending. The Board approves the use and operation of the proposed RCV deferral accounts, along with the proposed carrying charges.

The Board notes that Alliance proposed to keep any over-collections of the RCV costs, asserting that it fits with the overall "at-risk" nature of the NSO. The Board acknowledges the possibility that Alliance could over-recover the RCV costs, and is concerned with the approach of compensating a company for risk by allowing the company to keep any monies resulting from the over-recovery of flow-through costs. The Board is of the view that there are other mechanisms that would be better suited for compensating a company for risk, as discussed in Chapters 6 and 8. Therefore, the Board does not approve Alliance's proposal that the monies resulting from over-collection in the RCV deferral accounts be to the account of Alliance. Instead, the Board directs Alliance to carry over any year-end balances in its RCV revenue deferral accounts to offset future RCV surcharges. Should there be a balance in the RCV revenue deferral account when tolls are revisited, the Board will determine the appropriate method for disposing of the balance at that time.

In addition, to be more transparent to shippers and the Board regarding the amounts collected through the RCV surcharge, the Board directs Alliance to provide reporting on the RCV mechanism. The details of the reporting requirements with regard to the RCV costs are found in Chapter 9.

Finally, the Board expects that Alliance will meet with its task forces regularly to inform and discuss the RCV costs, surcharges and deferral account balances. This will increase clarity, transparency and communication with regard to these costs.

7.3 Pipeline Abandonment Surcharge

In MH-001-2013, the Board considered abandonment cost funding set-aside and collection mechanisms for all NEB-regulated pipeline companies. During that proceeding, Alliance submitted that it was in the process of moving to a new tariff and services model that would necessitate a change in its collection methodology. At that time, Alliance indicated that it intended to account for the Board's MH-001-2013 directions when requesting approval of its new tariff and services model.

Views of Alliance

Alliance proposed to collect its pipeline abandonment funds through demand and commodity surcharges that would be applied to each of the new services. The abandonment surcharges would be collected from all shippers in each of the three toll design zones, including all users of firm, seasonal and interruptible services.

Alliance suggested that the Annual Contribution Amount (ACA) be allocated to each of the three toll design zones using an allocation factor based on the asset net book value of the Pipeline, as was used in the calculation of its fixed tolls. Since the total estimated abandonment costs of the Pipeline strongly relate to the magnitude of physical assets to be removed or monitored during post-abandonment, Alliance considered an allocation factor based on asset net book value to be the appropriate approach for allocating such costs. Alliance also proposed that the daily abandonment demand surcharge for seasonal services and the commodity pipeline abandonment surcharge for interruptible services be equivalent to the 100 per cent load factor toll of the corresponding pipeline abandonment demand surcharge.

Alliance proposed that the demand and commodity surcharges reflect a collection period of 40 years and ACA of $10,903,723, as approved by the Board in the MH-001-2013 Decision. According to Alliance, this ACA would apply throughout the next five years, and any revisions to the pipeline abandonment surcharges to reflect variances in the billing determinants would be filed for Board approval on an annual basis.

Utilizing an ACA of $10,903,723 and billing determinants equal to its current contract demand level of 37 534 $10^3m^3/d$, Alliance proposed the following abandonment surcharges:

- Receipt Zone 1: $12.88 $10^3m^3/mo$ ($0.42 10^3m^3)
- Receipt Zone 2: $17.89 $10^3m^3/mo$ ($0.59 10^3m^3)
- Delivery Zone: $7.82 $10^3m^3/mo$ ($0.26 10^3m^3)
- Full Path Zone 1: $20.69 $10^3m^3/mo$ ($0.68 10^3m^3)
- Full Path Zone 2: $25.71 $10^3m^3/mo$ ($0.85 10^3m^3)

In accordance with the Board's MH-001-2013 Decision, Alliance confirmed that all of the expenses related to the administration of the abandonment trust and any additional taxes owed by Alliance or any other person (other than the Trustee of the abandonment trust) in relation to the abandonment trust were part of the cost risk assumed by Alliance under the NSO and would not be recovered from the abandonment trust.

Views of Participants

No participants expressed concerns regarding the calculation of the pipeline abandonment surcharge or the treatment of costs for services associated with the administration and operation of the pipeline abandonment trust.

7.4 Deferral Accounts Associated with the Abandonment Surcharge

Views of Alliance

In accordance with the guidance provided in MH-001-2013, Alliance proposed to maintain abandonment deferral accounts to record variances between the forecasted revenue and actual revenue collected for abandonment purposes. An abandonment deferral account would be created and maintained for each of the three toll design zones. These deferral accounts would allow Alliance to true-up the abandonment surcharge from year to year. According to Alliance,

any year-end annual revenue shortfalls resulting from variances in billing determinants would be allocated to one of the three toll design zone revenue deferral accounts. The abandonment funds collected would then be transferred to the abandonment trust. Alliance indicated that carrying charges would not apply to abandonment revenue deferral account balances.

Views of Participants

No participants expressed concerns regarding Alliance's proposed use of abandonment deferral accounts.

7.4.1 Views of the Board

The Board is of the view that Alliance's proposal for the collection of abandonment funds complies with the Board's MH-001-2013 Decision. The Board accepts Alliance's proposal to collect the ACA through abandonment demand and commodity surcharges from all users of the Pipeline, allocated using the same methodology as was used in the determination of the fixed tolls. The Board approves Alliance's applied-for collection mechanism and resulting abandonment surcharges as filed.

In its MH-001-2013 Decision, the Board recognized that variances may arise between the expected amounts collected and set aside and the actual amounts collected and set aside. Accordingly, the Board directed companies to apply to the Board for approval of deferral accounts or other true-up mechanisms. The Board finds Alliance's proposal to use a revenue deferral account for each of the three toll design zones to true-up any year-end annual revenue shortfalls to be appropriate, and approves the use of the proposed abandonment deferral accounts to record variances between forecasted revenue and actual revenue collected.

The Board reminds Alliance that, as per the MH-001-2013 Decision, Group 1 pipeline companies are required to file preliminary abandonment funding plans and to review their collection mechanism assumptions, ACAs and variances in collection in time for the next Board review. The preliminary funding plan must include: preliminary timelines for abandonment activities; preliminary plans for drawing on the funds, including cash needs; a preliminary forecast of the annual balance of funds to be set aside each year; and, in circumstances where the abandonment activities are not anticipated prior to the end of the collection period, adequate market information to justify the use of the same collection period for all components of the system.

The Board notes that Alliance did not provide additional information or studies to support the depreciation period used in the calculation of the NRR or the 40-year collection period. The Board expects Alliance to provide justification for its collection period during the next Board review, as contemplated by the Board's MH-001-2013 and RH-1-2008 Decisions. The Board advises Alliance that it should not use its currently proposed depreciation period as a relevant factor in determining that collection period.

Chapter 8

Risk and Reward

8.1 Risk and Reward Framework

Views of Alliance

Supply, Market, and Competitive Risks

While overall gas available for export from the WCSB has decreased in recent years because of declining gas drilling and increased demand in the Alberta marketplace, Alliance submitted that WCSB gas production is expected to grow in the long term. In particular, natural gas production within 40 km of the gathering area of the Pipeline has grown over 25 per cent since 2001, largely driven by liquids-rich gas development, while production has decreased elsewhere in the basin. Wet gas plays tend to have lower breakeven costs than dry gas plays because of the extra revenues Natural Gas Liquids (NGL) create. Recent history has demonstrated that the WCSB is volatile, having gone through cycles of growth and decline in the period since Alliance began operations.

WCSB gas production is expected to remain relatively flat until 2016 and then start rising thereafter, largely from growth in the Duvernay and Montney plays with other growth after 2020 from the Horn River Basin. Gas production from the Duvernay oil play and the Montney rich gas play are among the lowest cost sources of gas supply in North America. Other sources of WCSB gas are more marginal. Alliance stated that almost all of Alliance's receipt points west of Edmonton are situated in areas that have Montney and Duvernay potential. Alliance believes it is uniquely positioned to respond to the changed market conditions, offering shippers the ability to export rich gas to Chicago from a western Canadian market, especially given the pending reversal of the Cochin Pipeline, which will mean one less NGL export option.

Alliance submitted that significant expansions of systems like NGTL and other midstream competitors have been proposed and applied for. Alliance observed that the significant increase in U.S. gas production since 2008 has reduced Canadian exports to U.S. markets, thereby reducing throughput for WCSB export pipelines. Rapid development of the Marcellus and Utica shale plays in the Northeastern U.S. may continue to erode demand for gas produced in the WCSB. According to Alliance, this dynamic of reduced market share for existing Canadian export pipelines is a trend that is likely to continue for some time.

Meanwhile, if LNG projects do not materialize on Canada's west coast, significant delays in the development of the Horn River Basin and slower development of the Montney could occur because of lower gas prices and possible excess pipeline capacity out of the WCSB. There is also growing intra-Alberta demand driven by oil sands growth. If even small subsets of the LNG projects planned for the B.C. and Oregon coasts are put into service, they would compete for WCSB supplies with existing export pipelines. Alliance submitted that it faces unique market risk as a bullet line, because its economic viability could be undermined by competition at both its receipt and delivery locations.

Alliance submitted that the NSO was designed to respond to these and other short- and long-term commercial risks, and in recognition of the fact that the Pipeline lacks captive customers and market power.

Fixed-Toll Framework

In developing its "at-risk" business model and its multi-service framework, Alliance was aware of the need to ensure the long-term economic viability of the Pipeline, while still offering a variety of services that would be attractive in the marketplace. Alliance noted that its shippers with competitive alternatives need, and have requested, certainty to contract for the longer term. To meet this need, the NSO included term-differentiated fixed tolls for firm service. Alliance submitted that shippers contracting for service commencing 1 December 2015 under the fixed tolls outlined in the Application would not see their tolls adjusted during the term of their contracts, even if Alliance failed to contract target capacity.

Because firm tolls are fixed, Alliance indicated it would be at risk for any cost overruns, with the exception of a group of costs that are beyond Alliance's ability to accurately forecast and are not fully controllable by Alliance. These particular cost overruns are to be captured by the RCV surcharge mechanism, which would help to mitigate Alliance's cost risk to some extent. Further discussion can be found in Chapter 7.

Alliance reduced its depreciation rate as part of its proposal. The proposed rate of 2.8 per cent, reduced from the 4 per cent rate reflected in the original 25-year depreciation schedule, was one of the key steps taken by Alliance to develop a market competitive toll, and was balanced by Alliance's tolerance in regard to its return of capital. Alliance indicated that its proposed composite depreciation rate of 2.8 per cent was not determined based on a remaining economic life calculation. According to Alliance, the recovery of capital at a slower pace was another illustration of a market adjustment Alliance made to its tolls in response to the business risk environment it was facing.

As noted in Chapter 6, Alliance requested discretion to set bid floors for interruptible and seasonal services. Alliance submitted that flexible pricing for interruptible and seasonal services is less significant to Alliance's success than its overall service framework, which is focused on longer-term base load contracts, but still a necessary component in creating an appropriate risk/reward balance.

Alliance used a ROE of 10 per cent and a deemed capital structure of 60 per cent debt and 40 per cent equity in calculating its NRR. Those levels, in combination with other changes to the cost structure, provided a basis for deriving the NRR that, in Alliance's view, produced fixed toll levels that would be attractive in the market.

Alliance submitted that the Fair Return Standard would have limited application to Alliance's "at-risk" NSO. Alliance was of the view that the Fair Return Standard would be most applicable as an input parameter in the calculation of tolls under a cost-of-service methodology. According to Alliance, the concept of the Fair Return Standard has traditionally been used by regulators in the context of cost-of-service regulation, and as regulators have moved away from a strict cost-of-service approach, the Fair Return Standard has been modified and adapted accordingly.

The tolls offered by Alliance under its NSO were designed to be attractive in the marketplace and are not linked to the collection of a revenue requirement based on the typical cost-of-service determination. Alliance submitted that its effective return on equity capital would be the result of its ability to attract volumes to its system and its ability to manage costs. It would not stem from an input to a toll calculation. In this regard, Alliance noted it was not seeking Board approval of specific components of its tolls, including its capital structure.

In the context of the risk/reward balance described in its Application, Alliance was of the view that it has a reasonable opportunity to recover its cost of capital under the proposed competitive tolling methodology, and that the applied-for tolls are just and reasonable. Alliance noted that the potential to be rewarded in the form of a higher ROE than is presented in the NRR is a possibility under Alliance's NSO. Alliance proposed that the assumption of a higher level of risk under the new framework should be counterbalanced with the opportunity for higher rewards. Alliance was of the view that it has no captive customers and considered the likelihood of it collecting annual revenues well in excess of the NRR to be improbable, particularly given the competitive market in which it operates.

Alliance submitted that it would have approximately $1.3 billion of undepreciated assets on its books as of 1 December 2015. In Alliance's view, the debt service costs associated with this capital are largely fixed and are substantial. Alliance added that the G&A and O&M expenses necessary to safely maintain and dispatch the integrated system are likewise substantial. These costs must be paid before any revenues are available to equity holders. Based on the most recent update of executed PAs current to 27 March 2015 and assuming legacy shippers contract under the NSO, Alliance provided a forecast of its expected firm service revenues, as compared to its NRR, as follows:

Table 8-1 Alliance Estimate Firm Transportation Revenue vs. Notional Revenue Requirement

Estimated Revenue ($Millions)	2016	2017	2018	2019	2020	2021	2022 (Jan-Oct)
PAs, Renewal	$233	$262	$284	$262	$249	$119	$99
NRR	$368	$368	$368	$368	$368	$368	$368
% Support	63%	71%	77%	71%	68%	32%	27%

Under a cost-of-service toll methodology, a pipeline's revenue requirement includes a risk-adjusted ROE, and the pipeline does not bear a significant level of revenue and cost risk. This provides symmetry between the pipeline's revenue and cost risk, and its return on capital. Alliance submitted that, under the NSO, the magnitude of risks is not symmetric with the potential actual return on capital, irrespective of the level of firm contracting that Alliance had achieved to date. According to Alliance, the risk of not recovering a reasonable rate of return on equity would be far greater than the potential for Alliance to over-earn by a proportional amount.

Alliance was of the view that North American natural gas market dynamics will continue to be variable in nature and, as a result, its earnings under the NSO fixed-toll construct could vary, despite its best efforts to mitigate its cost of capital risk. The likelihood of Alliance earning less

than its cost of capital is a risk that arises over the short and long term because of the volatile competitive market in which Alliance operates, and because shippers are not captive to Alliance. Nevertheless, Alliance was of the view that its NSO would provide it with the tools to mitigate the circumstances under which this risk may arise. Cost management would be directly in the hands of Alliance. In addition, Alliance indicated that the fixed toll was a competitive offering, augmented through the toll flexibility associated with the provision of seasonal and interruptible services. Alliance submitted that for these reasons, while there may be year-over-year revenue fluctuations, it would have a reasonable opportunity to recover its cost of capital under the NSO over the long term.

If a shortfall of actual revenue occurs in a single year of the proposed 10-year period, it is likely that this would impact Alliance's actual ROE. If the shortfall exceeded the allotted ROE, return of equity capital would also be negatively impacted. Alliance noted that if the shortfall occurred over the longer term, tools such as service redesign would be considered. New tolls and services could then be pursued for future pipeline customers, subject to Board approval. Alliance noted that raising absolute tolls levels in the current market conditions would not be an option for it to address a loss situation, given that making tolls less competitive could drive existing customers to a competitor.

Alliance submitted that competition in its receipt markets and its delivery market near Chicago limits the returns it can achieve. Other traditional long-haul pipelines serving the Chicago area are experiencing the same competitive pressures from the supply growth of the Appalachian shales. These pipelines are discounting their capacity and it was Alliance's view that it may have to do the same in order to compete in the market.

Deferral Account

According to Alliance, establishing a cap on actual return on capital, where any revenues resulting in a return greater than the cap would be captured in an account for later disposition, is not consistent with an "at-risk" business model and competitive market environment. The premise for such a cap may have merit for a cost-of-service pipeline with captive customers implementing a fixed-toll mechanism, as the Board found in its RH-3-2011 Decision; however, under Alliance's model, risk has shifted from shippers to Alliance. Alliance submitted its competitive tolls are not calculated under a cost-of-service methodology, and its effective return on equity capital would be the result of its ability to attract volumes to its system and its ability to manage costs.

Alliance submitted that attaching limits to the upside but not the downside would interfere with a functioning competitive market, and impede market efficient outcomes. Alliance added that recording shortfalls in a deferral account would serve no purpose since market conditions would dictate the level of competitive tolls on Alliance, and Alliance would not be in a position to collect any such deficiency. Only in a cost-of-service environment with captive customers could tolls be increased to recover past shortfalls.

Alliance submitted that it would have to continue to respond to prevailing market conditions in the future. If competitive market conditions necessitate a change, Alliance indicated that it may

need to apply for an alternate tolling methodology for new contracts that could include market-based tolls, a light-handed regulation methodology, or a return to cost-of-service tolling.

Views of CAPP

In CAPP's view, Alliance had overstated its risk. According to CAPP, the volume risk faced by Alliance was not new; Alliance's original business model had this risk. Cost risk would not be open ended: costs deemed to be uncontrollable would be captured by the RCV surcharge mechanism and could result in a toll adjustment during the term of shippers' contracts. CAPP added that tolls could also be adjusted at will when the initial contracts end. Apart from this, the supply/market/competitive risks would be of a long-term type and degree that all pipelines face.

CAPP submitted that, overall, allowing Alliance the opportunity to earn revenue over and above the revenue from its annual firm contracts through PITS, at fixed and premium prices, and from regular interruptible service and seasonal firm, on a biddable basis with a ceiling on the bid floor, would more than compensate Alliance for the risk it really faces. CAPP asserted that Alliance has built in mitigation of its equity return risk by using in its "notional" cost-of-service a higher deemed equity component than its actual equity. In such a scenario, the actual equity returns are more likely to exceed the required investor return than fall below.

Views of BP Canada

BP Canada noted that under both the proposed NSO and the currently approved Tolling Principles, under-contracting by Alliance would have no effect on the tolls of the contracted shippers. Under the current Tolling Principles approved by the Board in GH-3-97, the tolls are based on a minimum contracted capacity of 1,325 MMcf/d (39.52 $10^6 m^3/d$), regardless of the actual contracts in place. Under the NSO, tolls are "fixed".

BP Canada added that it expects Alliance will take steps during the 10-year period to manage and maintain its ROE, and acknowledged Alliance's statement that it may apply for higher longer-term rates during the 10-year levelization period. In the Trans Mountain Pipeline ULC (Trans Mountain) Expansion toll proceeding, Trans Mountain committed to relinquish its right to come back to the Board for relief for 20 years. BP Canada observed that Alliance did not make a similar commitment for the 10-year period it proposed under the NSO; in fact, Alliance had not even committed to offer tolls that reflect the NRR beyond the primary terms shippers have contracted for.

BP Canada asserted that Alliance had used unreasonably low volumes in calculating unit tolls, creating the likelihood that Alliance's actual revenue would exceed its revenue requirement. BP Canada was of the view that Alliance's proposed discretionary pricing for interruptible service and seasonal service could lead to excessively high returns on equity; therefore the Board could not conclude that Alliance would not over-recover its reasonable costs over the levelized term. BP Canada noted that it would not be possible to track the actual rate of returns achieved under Alliance's proposal since Alliance utilized a 10-year NRR to calculate a levelized value.

BP Canada submitted that the Board should deny the Application. In the alternative, BP Canada recommended that the Board direct Alliance to create a deferral account to which any revenues earned in excess of a Board-determined revenue requirement would ultimately be credited to the account of shippers.

8.1.1 Views of the Board

Supply, Market and Competitive Risks

The Board finds that Alliance has overstated its competitive risks. Production has significantly grown in Alliance's gathering area and is expected to continue growing. According to the submitted supply costs, Alliance has access to sources of gas supply that are cost competitive in the Chicago market. Alliance can also transport rich gas from the WCSB to the Aux Sable gas plant outside Chicago while alternative transport options to export NGLs from the WCSB have been reduced.

The Board also finds that Alliance's "unique" competitive risks are not greater than the risks facing competing systems. Alliance must compete in the mid-west market against growing Utica and Marcellus supplies. Meanwhile, as a bullet line, Alliance's risk may not be as great of a risk as it claimed. Areas outside Alliance's gathering area have had shrinking production, which means some other pipelines must potentially recover costs for large areas of their systems that are experiencing shrinking flows. Alliance – given its concentrated gathering area in a place of production growth – is likely to have less exposure to this risk.

The Board is not convinced that Alliance will face significant competition for throughput from LNG exports within the next five years. Even without the benefit of LNG exports raising gas prices in Western Canada, gas production has been increasing in Alliance's gathering areas. Therefore, the Board is not convinced that Alliance faces significant throughput risk from slower upstream activity if no LNG projects are built.

Fixed Toll Framework

Given the significant amount of uptake of the NSO since the Application was initially filed, and the resulting additional certainty of firm contract levels over the first six years of its NSO proposal, the Board believes that Alliance's risk has been significantly reduced since it filed the Application. While Alliance's contract profile declines after six years, the Board is of the view that Alliance is not unique in this respect, and that several mature pipelines have similar contract profiles.

The Board notes Alliance's evidence to the effect that shippers demanded toll certainty. The Board relied on Alliance's commitment not to alter the fixed tolls during the primary term of TSAs for firm service concluded pursuant to the NSO, and it expects Alliance to uphold that commitment.

Alliance's commitment is consistent with one of the justifications provided by it for the NSO model – specifically that the NSO, as proposed, represented a reasonable balance between (i) the risk of loss being assumed by Alliance should predicted volumes not materialize or certain costs (other than RCV costs) exceed expectations, and (ii) the possibility of higher than expected financial rewards for Alliance shareholders should volumes and/or market-based rates for discretionary services exceed expectations or certain costs (other than RCV costs) come in lower than predicted.

As the Board is placing no weight on the NRR, the Board makes no conclusion on the likelihood of Alliance's revenues exceeding its costs. However, the Board accepts that Alliance will face both volume risk related to the level of services it can sell and cost risk, as its shippers have fixed toll levels over their contract terms (with the exception of various surcharges that may vary as discussed in Chapter 7). Alliance may need to sell discretionary services in addition to its firm services in order to cover all of its costs. This could result in high annual variability in realized returns, with shortfalls in some years, and higher returns than forecast (excess returns) in other years. The resulting risk, in the Board's view, is higher than it would be generally for pipelines regulated on a cost-of-service basis, where the opportunity exists for collection of under-recovered costs through subsequent toll increases. In the Board's view, this risk is somewhat mitigated by the fact that Alliance has remaining capacity not available for firm contracting that may be sold at higher daily rates than the firm service, and should aid Alliance in its cost recovery.

As discussed in Chapter 6, the Board disagrees with Alliance's submission that it needs full discretion to set bid floors for discretionary services in order to secure a reasonable opportunity to achieve a fair return for its shareholders. Alliance's actual realized returns will be the result of both factors within its control, such as its ability to control costs and effectively optimize its system, and market factors outside of its control. Realized returns, under the approved tolling structure, will not be a function of Alliance's ability to take advantage of its market position and strategically force particular shippers with varying degrees of captivity to pay greater than the prevailing market price for discretionary services. The Board is of the view that under the approved toll framework, Alliance will be provided with a reasonable opportunity to earn a return on and of its invested capital. The Board gave no weight in its determination to the ROE figure imbedded in the NRR.

Additional Reasons of Member Richmond

I agree with my colleagues with respect to the commitment that Alliance made and the Board's reliance on that commitment in arriving at its decision to approve the Application.

For the benefit and convenience of Alliance and shippers, and to facilitate the efforts of future panels of the Board or other adjudicators, I feel it

would be helpful to set out here further details of that commitment by Alliance and the reliance placed on it.

In response to Information Request (IR) #5.17(c) from the Board, Alliance stated the following on the record:

> *The fixed tolls for which Alliance is seeking approval are fixed for the initial term of a shipper's TSA commencing on or after December 1, 2015....*
>
> *Two key components of Alliance's New Services Offering with respect to this issue are:*
>
> 1. *Fixed tolls for the initial term of shippers' TSAs (some of which are almost 7 years in length);*
> 2. *Flexibility for Alliance to seek approval of revised tolls for new or renewing shippers post December 1, 2015.*
>
> *Any Board approval that does not incorporate these two components would be problematic. These two components are fundamental to Alliance's at-risk model and its need for flexibility to adjust tolls for new or renewing shippers as market circumstances change. Further, fixed tolls for the initial term of a shipper's TSA may have been determinative in shippers' decisions to enter into PAs.* [Emphasis added]

In response to IR#1.17(a) of the Board, Alliance stated the following on the record:

> *Alliance is assuming all of the financial risk associated with not attracting firm contracts up to the annualized contractible capacity (1.395 Bcf/d) forecasted in its proposed toll design. Shippers that contract for service commencing December 1, 2015 under the fixed tolls outlined in the application will not see their tolls adjusted during the term of their contracts if Alliance fails to contract that target capacity. Based on its consultations with shippers Alliance understood that shippers were reluctant to contract on Alliance Pipeline under the traditional Canadian Cost of Service ("COS") toll methodology where volume risk is borne by the shipper community. The traditional Canadian COS model simply does not work for a pipeline like Alliance where its shippers have competitive alternatives.* [Emphasis added]

When asked in IR#1.17(b) whether shippers would be impacted if the Pipeline does not become fully contracted for firm volumes, Alliance responded as follows:

> *Shippers who execute firm service contracts will not be impacted during the term of their contract.* [Emphasis added]

And when the Board asked for further confirmation of this position during the oral reply portion of the hearing, counsel for Alliance had this to say to the Board:

> *2004. MR. KEOUGH: Okay, I want to be clear here because if you approve the NSO, then I think you're approving the obligations or you're approving the NSO structure that requires Alliance to meet those obligations over the duration of the signed contracts. So I think Alliance would have to honour those contracts over the terms agreed to and you would have endorsed that, and then it would be Alliance's intention to honour those.*
>
> *2005. Where we've talked about coming back to the Board to do something different, change tolls -- and I don't think Alliance had talked about going back to a cost of service model. I think that came from other quarters.*
>
> *2006. But what Alliance had talked about was for contracts that have expired, so the expiry profile will leave capacity available to be re-contracted. And you've heard that the longest duration is seven years, so unless Alliance continues to be able to attract business with the current model, then it may have to look at changing that current model on a go-forward basis for parties other than those under contract. So once you approve the NSO, Alliance would be bound to honour those contracts. ...*
>
> *2010. MEMBER RICHMOND: ... I just want to make sure I've understood correctly, then.*
>
> *2011. If the significant level of risk that you've alluded to throughout this hearing materializes and some of these contracts expire and no one renews and now you experience a significant volume risk and Alliance is basically -- can't sustain the operation costs of the pipeline, are you suggesting that you would live with the contracts that are still in place through the end of, say, seven years and not come back to us?*
>
> *2012. MR. KEOUGH: Not on those contracts.* [Emphasis added]

Alliance committed not to seek changes to fixed tolls that would apply to shippers during the initial terms of their TSAs (and to limit the application of toll changes or a return to cost of service only to new or renewing shippers). Alliance made it clear to the Board that this commitment was a "fundamental" and "determinative" element of the contractual negotiations that led to the PAs and will ultimately lead to TSAs between Alliance and its shippers.

It is clear from the above that, in Alliance's view, the parties came to a meeting of the minds on this point in the PA and Application processes, and that their mutual commercial intent was to honour the TSAs at the firm toll rates being approved pursuant to this Order for the duration of the initial term of each TSA. Alliance further acknowledges that without such a commitment, shippers might not have agreed to enter into a contract with Alliance.

Alliance committed to honour the commercial elements of the NSO throughout the initial terms of the TSAs, and while Alliance reserved the right to seek toll or tariff changes from the Board (which, while not the present intention of Alliance, could include seeking a return to a traditional cost-of-service model), it committed not to seek any such changes which would apply to a firm shipper during the initial term of its TSA. This commitment and intent was heard not only by the Board, but also by shippers and by participants in the hearing, including those who chose to not object to the Application or not to participate in the hearing, perhaps in reliance on such commitment and intent.

It is both (i) this "fundamental" and "determinative" commercial agreement between Alliance and its shippers, and (ii) the lack of objection from most shippers, which based on Alliance's submissions can reasonably be attributed at least in part to their reliance on such commercial agreement, which are relied upon in approving the Application.

Reserve Account

In its Application, Alliance decreased its depreciation rate to 2.8 per cent, a rate not supported by a depreciation study. The Board maintains its view expressed in past decisions[7] that it is up to a company's management to set its depreciation rate to appropriately reflect the expectations of its system. Once this depreciation rate has been set, the required return should be based on the best estimate of depreciable life of the pipeline, and resulting return of capital.

It is the Board's view that Alliance's approach–to request an ability to earn all returns it can generate to compensate for the risk it faces while at the same time not justifying the lowering of its depreciation rate or return of capital–is inconsistent with this concept. This approach could increase risk in the future and it may cause intergenerational inequity for future shippers.

Alliance, on the one hand, indicated that it faces significant risk with respect to its ability to contract sufficient volumes in the future. On the other hand, it lowered its proposed depreciation rate and maintained its previous submissions around its 40-year abandonment cost collection period, as noted in Chapter 7. These submissions, in the Board's view, do not reconcile. Nor is this approach consistent with the Board's view that allowed returns should be based on the best estimate of depreciable life of the pipeline. Without a full account of the risks facing Alliance, and a discussion of Alliance's plan to mitigate those risks, it is premature to allow Alliance to distribute excess returns to its equity holders.

Of further concern, should Alliance later apply for cost-of-service toll treatment or similar relief after distributing excess returns, the Board is of the view that this could result in shippers effectively paying the higher of market or cost of service. This may allow for an abuse of Alliance's market position.

The Board was not persuaded of the fairness of BP Canada's deferral account to allocate excess returns to shippers. While shippers are shouldering some risk in their commitment to long-term contracts, Alliance has the greater part of the risk, as it will face volume and cost risk over time. In the Board's view, there was insufficient evidence on the record to support shippers having an unbounded upside potential from a deferral account. The Board's reserve account, as set out below, differs from BP Canada's suggestion and will still provide Alliance with incentives to manage its costs, optimize its system, and better allocate rewards to the risk takers. The Board's approach focuses on the timing of cash flow to equity holders but does not divert excess earnings back to Alliance's shippers.

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[7] See for example TransCanada PipeLines Limited, Reasons for Decision RH-2-2004 Phase II, April 2005 at page 46, where the Board stated that a company can mitigate its depreciation-related risk by seeking to change depreciation rates when it becomes apparent depreciation rates in place do not adequately reflect current estimates of economic life. An updated depreciation study and depreciation rates are expected to be filed with the Board, for approval, should any factors materially change them.

Alliance is directed to make a compliance filing that provides a schedule of the baseline level of distributions assumed in the NSO, holding the rate of return on equity and depreciation figures at the levels implicit in the NSO, and assuming revenues equal costs (including return) in each year. The Board directs Alliance to rely on the assumptions in the NSO since the Board has no alternative on the record on which it could otherwise proceed. This schedule shall establish the baseline level of cash flow Alliance may distribute to equity holders under the approved toll framework. After payment of all its costs, including (but not limited to) O&M expenses, G&A expenses, debt service, integrity, and depreciation, Alliance may make these baseline distributions. The compliance filing should also illustrate the priority for flow of funds (i.e., rank order of how Alliance intends to pay for its expenses prior to making distributions). Alliance must make this compliance filing by 7 October 2015.

The Board directs that any amounts in excess of the baseline distributions set out in the compliance filing must be held by Alliance in a reserve account. This has some similarities to the Maritimes and Northeast Escrow account arrangement.[8] The pipeline may earn the returns but may not distribute a portion of them out of the pipeline's hands until certain criteria are met. The holdings in the reserve account may be invested by Alliance (at arm's length and not in any affiliated company) to offset a loss in the time value of distributions to the equity holders.

Prior to making any distributions from this reserve account, Alliance must file, for approval, a depreciation study to support its proposed depreciation rate. If the study indicates that the applied-for rate is appropriate, Alliance may distribute any excess returns, including any reserve balances, provided it first pays its other costs, including depreciation.

If the study indicates that the rate needs to be increased on a go-forward basis, Alliance may distribute all resulting excess returns provided it first pays its costs, including depreciation, in any given year. Should there be an accumulated balance in the reserve account when Alliance files its depreciation study, that balance shall be first used to pay for any under-depreciation accumulated to that point before the excess is distributed to equity holders. The Board will be monitoring the reserve account. In the event that any balance becomes excessive and Alliance has not provided a depreciation study, the Board may ultimately order Alliance to file a depreciation study in the future.

The entire reserve account will flow to Alliance equity holders, either as a return of capital, if Alliance needs to increase its depreciation rate from that assumed under the NSO, or through a return on capital, if Alliance files a depreciation study supporting its NSO depreciation rate.

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[8] 11-06-16 NEB - Reasons for Decision RH-4-2010 - Maritimes and Northeast Pipeline Management Ltd. - Application for 2010 Final Tolls (Escrow Issue) (A29680)

Chapter 9

Compliance and Future Filings

9.1 Streamlined Regulatory Process

Views of Alliance

In Alliance's view, the proposed "at-risk" business model requires that Alliance have tools to manage its risks by responding quickly to changing market conditions. One of the tools requested by Alliance was the implementation of a streamlined regulatory process, which was intended to allow Alliance to implement new services and new or revised tolls in an expedited manner.

Alliance foresaw two general categories of applications to be considered under an expedited regulatory process. The first category could entail minor revisions to the terms and conditions of service contained in the proposed Tariff. The second category involved issues that could arise as a result of a changing business environment.

Alliance observed that a streamlined 10-week regulatory process was developed for the TransCanada Mainline in the RH-003-2011 Reasons for Decision. Alliance requested that the Board approve a similar streamlined regulatory process for the Pipeline, but over an 8-week timeframe. According to Alliance, such a process would provide the ability to bring forward new proposals for consideration by the Board while allowing Alliance to respond quickly to the requirements of its existing and prospective shippers.

Alliance argued that the Pipeline is both physically and commercially smaller and simpler than the TransCanada Mainline, and should be more suited to a shorter decision timeframe. Alliance was of the view that this reduction in process timeline would not present any material competitive implications for other pipelines. In addressing shippers' ability to bring concerns to the Board within the requested timeframe, Alliance asserted that it expects new products and services would arise because of market demand and as a result of dialogue and collaboration between Alliance and shippers prior to the filing of any application.

Views of BP Canada

BP Canada contended that the streamlined process proposed by Alliance may be appropriate in certain circumstances, but the timelines should not be adopted as a "one size fits all" approach. BP Canada requested that the Board reject Alliance's proposed process.

Views of CAPP

CAPP suggested that the utility of expedited processes depends on the nature of the application, such as the breadth of the changes proposed, the extent of the opposition, or the degree of the potential impacts. In CAPP's view, the appropriate process is to be tailored to fit the need for fairness and well-informed decision-making as well as expedition. CAPP also submitted that the streamlined process contemplated for the TransCanada Mainline in the RH-003-2011 Decision has had limited use.

9.1.1 Views of the Board

The Board is of the view that Alliance does not require a streamlined regulatory process at this time. It is the Board's view that Alliance's unique ability to transport liquids-rich gas combined with the tools granted in this Decision, including pricing discretion for interruptible and seasonal services, will allow Alliance to compete effectively in its business environment.

The Board will establish a fair and appropriate process for any application brought before it related to the NSO. In determining a fair and appropriate process, the Board will consider factors such as the scope of the changes proposed in the application, the impacts of those changes, and the market environment at the time. In some circumstances, the Board may find that some form of expedited process is warranted.

9.2 Quarterly Surveillance Reports

The QSRs contain information to enable the Board to monitor a pipeline's financial performance over time. The QSRs includes information that allows the Board to consider whether or not the earned ROE is reasonable, revenue levels are appropriate and tolls are being calculated correctly, as well as providing market information on throughput.

Views of Alliance

Alliance requested continued relief from filing QSRs since the current approach has worked well from its inception and Alliance was unaware of any reason for discontinuing this relief. Additionally, Alliance stated that since it was not proposing a change to this exemption, it had not specifically consulted with its shippers on continuing the exemption.

Alliance requested continued relief on the basis that the market-based nature of the tolls underpinning the NSO and the "at-risk" nature of the NSO with respect to both firm and interruptible capacity would not require the Board to compare actual performance to amounts used to determine the proposed tolls or to monitor the financial results for Alliance. Alliance noted that it should also be granted relief on the basis that during the term of the firm service contract, there would no longer be a direct connection between the financial results experienced by Alliance and the fixed tolls paid by shippers. Only those expenses that fall under the RCV category would impact a shipper's toll, and, from a transparency perspective, details of those elements would be the subject of a revised toll filing by Alliance on an annual basis, if a revision to the RCV surcharge was required.

Alliance stated that the annual financial statements of Alliance Pipeline Limited Partnership would provide relevant information on its financial position and that these statements are readily and publicly available on the System for Electronic Document and Retrieval (SEDAR) website. However, Alliance confirmed that audited annual financial statements do not report on the revenues earned from firm contracts or interruptible service separately.

As discussed in Chapter 6, Alliance has not determined what information it will report regarding bid information.

Views of CAPP

CAPP stated that it is concerned with Alliance's request for relief from filing the QSRs. Despite Alliance's proposal for different toll treatment, CAPP stated that Alliance is still a regulated pipeline and its tolls must be considered to be just and reasonable and in the public interest. CAPP was of the view that it is through monitoring a regulated pipeline's ongoing performance that producers, shippers and members of the public develop views as to whether a regulated pipeline continues to meet those criteria. CAPP added that the filing of QSRs is one measure that gives producers some limited insight into the financial condition of a regulated pipeline upon which they may depend to deliver their product to market.

CAPP explained that an exemption from filing the QSRs would mean that its members, and especially those that are shippers on Alliance, would have no means by which to monitor Alliance's performance as a regulated pipeline. CAPP added that without the data provided in a QSR, its members would be severely handicapped in any future negotiations or conversations with Alliance, whether inside or outside the NEB hearing room.

Views of BP Canada

BP Canada stated that it is concerned about the lack of transparency which could result from granting Alliance relief from filing QSRs. By exempting Alliance from the QSR reporting requirements, BP Canada was of the view that shippers and the Board would lose their ability to assess whether Alliance's costs are just and reasonable on an annual basis since there is no other place where this information can be obtained. BP Canada further explained that reporting is especially important given Alliance's proposal to use discretionary pricing as well as Alliance's ability to administer discretionary pricing in conjunction with balancing penalties, which may result in shippers being forced to rely on discretionarily-priced products to remain in balance. Due to both its novelty and potentially substantial financial implications, BP Canada believes Alliance should have oversight and transparency built in and that nothing can replace information disclosure.

BP Canada affirmed that transparency is an important element of empowering shippers and potential shippers to avail themselves of the rights and remedies that the NEB Act and the Board's processes provide concerning the effect of approved tolls.

9.2.1 Views of the Board

In the GH-3-97 proceeding, Alliance had applied to be designated as a Group 2 company for the purpose of toll and tariff regulation. The Board concluded that Alliance should be designated as a Group 1 company but decided that it would be appropriate to exempt Alliance from the requirement to file QSRs.

Although Alliance has been granted an exemption from filing QSRs in the past, the Board is of the view that the appropriateness of continuing the exemption must be considered in the current circumstances. Due to both the uniqueness and financial implications of the NSO, the Board is of the view that oversight and transparency are required. Without adequate reporting, shippers and the Board would not have the ability to monitor Alliance's performance adequately. Further, the Board is of the view that the availability of reliable, transparent information contributes to an efficient, well-functioning market.

The Board orders Alliance to file the following information with the Board.

Annually:

- Rate of return on common equity and on total capital
- Audited consolidated financial statements
- Five years of time series data on integrity spending

Quarterly:

- Income statement, including revenues and expenses broken down by service type
- Clearly identified expenses related to the RCV cost categories
- Rate base information broken down by major categories
- Daily throughput data in GJ, cubic meters and Bcf at key points on the system, including the southern end of Zone 2, the ATP and the Canada-U.S. border, on
    - Volume of gas flowed
    - Total nominated flows by service type
- Capacity of the system at each key point and the reason for any deviations from the nameplate capacity of the Pipeline
- Details of all deferral account balances
- Details of reserve account balances, additions and distributions
- Details of all related-company transactions over $100,000
- Bid information determined in consultation with shippers, as described in Chapter 6
- AECO-C and Chicago city gate price used in the Index-Based Rate sharing mechanism

As set out in the Filing Manual Guide BB, the first QSR filing is due no later than 60 days after the year end. This first QSR filing must include the quarterly information for the month of December 2015, as listed above.

The Board directs Alliance to comply with any additional reporting requirements and or amendments to future reporting requirements as directed by the Board. The Board reminds Alliance that its reporting requirements are by order of the Board and, as a result, cannot be negotiated away or altered during the course of any future negotiations.

Appendix I

List of Issues

The Board has identified but does not limit itself to the following issues for consideration in the proceeding:

1. The appropriateness of the proposed toll and surcharge methodologies for service under the New Services Offering.
2. Whether the notional revenue requirement is appropriate in the derivation of the proposed tolls and surcharges and the allocation of risk and reward.
3. The impact of the New Services Offering on customers with existing contracts.
4. Effectiveness of the New Services Offering in supporting a safe, and economically viable pipeline.
5. Whether the applied-for Tariff terms and conditions are appropriate.
6. Whether the commercial engagement process used by Alliance was transparent and results in fair access to all interested parties.
7. Whether the Board should exempt Alliance from the filing requirement of Board Quarterly Surveillance Reports and Performance Measures.

Appendix II

Toll Order

ORDER TG-012-2015

IN THE MATTER OF THE *National Energy Board Act* (Act) and the regulations made thereunder;

AND IN THE MATTER OF an application by Alliance Pipeline Ltd. (Alliance) dated 22 May 2014 for approval of new services and related tolls and tariffs for service effective 1 December 2015, pursuant to Part IV of the Act and filed with the National Energy Board (Board) under file OF-Tolls-Group1-A159-2014 01;

BEFORE the Board on 24 June 2015.

WHEREAS Alliance filed an application dated 22 May 2014, seeking approval of new services and related tolls and tariffs for service on the Alliance pipeline effective 1 December 2015 (Application);

AND WHEREAS the Board issued Hearing Order RH-002-2014 on 20 August 2014 setting the Application down for a written hearing with oral argument;

AND WHEREAS on 24 September 2014, the Board ruled on the status of interested parties and issued the list of intervenors, commenters, and those denied standing;

AND WHEREAS on 15 and 16 April 2015, the Board held oral argument in Calgary, Alberta;

AND WHEREAS the Board's decisions on the Application are set out in its Reasons for Decision dated July 2015, and in this order;

THEREFORE IT IS ORDERED, pursuant to Part IV of the Act, that the tolls and tariff for the Alliance pipeline are approved as explained in the Reasons for Decision subject to the following conditions:

1. Alliance must, for accounting, toll-making and tariff purposes, implement the directions and decisions and any conditions outlined in the RH-002-2014 Reasons for Decision dated 9 July 2015, including those listed below.

2. Alliance must file a new tariff to reflect the directions of the Board prior to 30 November 2015.

3. The tolls for firm service are approved as applied for.

4. Alliance must set the bid floor for seasonal services between 100 per cent and 125 per cent of the corresponding fixed five-year firm service toll.

5. Alliance must set the bid floor for interruptible services at any level up to 125 per cent of the corresponding fixed five-year firm service toll.

6. Alliance must consult with shippers and report to the Board by 7 October 2015 on bid mechanics and setting bid floors.

7. Alliance must apply the Recoverable Cost Variance (RCV) surcharge and deferral accounts as filed.

8. Alliance is required to provide the Board with a comprehensive description of the costs to be included in each RCV cost category by 7 October 2015.

9. Any over-collections of the RCV costs are to be carried over to offset future RCV surcharges.

10. Alliance must apply the abandonment surcharge methodology and deferral accounts as filed.

11. Alliance is expected to provide information or studies to support a collection period of 40 years at the next Board set-aside and collection review, as contemplated by the Board's MH-001-2013 and RH-1-2008 Decisions.

12. Alliance must file Quarterly Surveillance Reports to the Board.

13. Alliance must make a compliance filing that provides a schedule of the baseline level of distributions assumed in the Application, maintaining the rate of return on equity and depreciation figures at the levels implicit in the Application by 7 October 2015.

14. Alliance must implement a reserve account to hold cash earnings above the threshold level established by the compliance filing. Prior to making distributions from this account, Alliance must file, for Board approval, a depreciation study to support its depreciation rate.

NATIONAL ENERGY BOARD

Sheri Young
Secretary of the Board